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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Addendum

AZERBAIJAN *

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8 November 1999

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INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

SECOND PERIOD REPORT

AZERBAIJAN REPUBLIC

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I. INTRODUCTION

1. The present report, which is submitted in accordance with article 40, paragraph 1, of the International Covenant on Civil and Political Rights, is the second periodic report on the measures taken by the Government of the Azerbaijan Republic to implement the rights proclaimed in the Covenant and on the progress made in the exercise of those rights.

2. Presidential Order No. 157 of 14 May 1999 established the Working Group for the Elaboration of the Second Periodic Report of the Azerbaijan Republic on the International Covenant on Civil and Political Rights. The Group comprised representatives of: the Ministries of Foreign Affairs, Internal Affairs, Justice, Youth and Sport, Defence, Labour and Social Protection; the State Statistical Committee; the Procurator's Office; representatives of the Constitutional and Supreme Courts were also invited to participate. Experts from State structures and from non-governmental organizations worked on the report.

3. This report has been prepared in accordance with the Human Rights Committee's general guidelines regarding the form and content of States' reports under article 40, paragraph 1 of the Covenant. It examines the legislative, judicial, administrative and other measures taken by the Azerbaijan Republic to give effect to the provisions of the Covenant since the initial report.

4. An event of both social and political significance occurred on 12 November 1995 with the adoption, following a national referendum, of the first Constitution of an independent Azerbaijan. This instrument, drafted in the light of fundamental principles and rules of international law, proclaimed the policy of building in Azerbaijan a secular State founded on universal human values, the primacy of law and the protection of human and citizens' rights and freedoms.

5. The first parliamentary elections in the Azerbaijan Republic were held in 1995 and the first presidential elections since the adoption of the new Constitution took place in 1998.

6. To date, the Azerbaijan Republic has established diplomatic relations with 135 States.

7. The Azerbaijan Republic is a permanent member of the United Nations, OSCE, UNESCO, ILO, WHO and many other international and regional organizations.

8. In June 1996, the Azerbaijan Republic was accorded "special guest" status at the Council of Europe.

9. Work is currently in hand, with the participation of experts from the United Nations, OSCE and the Council of Europe, on drafts of a new Criminal Code, Code of Criminal Procedure and Civil Code.

10. The Azerbaijan Republic has acceded to 125 international conventions, including fundamental multilateral human rights treaties.

11. The programme of technical assistance for strengthening Azerbaijan's capacity and infrastructure for human rights protection and promotion which was signed between the

Government of Azerbaijan and the Office of the United Nations High Commissioner for Human Rights on 28 July 1998 provides for the dissemination of information and United Nations documentation on human rights.

12. A Memorandum of Understanding was concluded between the Government of Azerbaijan and OSCE in November 1998.

13. One of the projects annexed to that Memorandum is entirely devoted to electoral assistance to the Government of Azerbaijan from the OSCE Office for Democratic Institutions and Human Rights.

14. In 1998, the "Azerbaijan" publishing house, acting on the initiative of the Azerbaijani National Commission for UNESCO, produced "Human Rights: A Compilation of International Instruments" in the Azerbaijani language.

15. The main obstacle to the development of Azerbaijan lies in the continuing aggression by neighbouring Armenia and the associated grievous consequences.

16. In order to evaluate correctly the causes of the war being waged against Azerbaijan by its neighbour State it is important to digress briefly into the recent past.

17. Armenian mass settlement on Transcaucasian territory, including in Azerbaijan, began in the first half of the nineteenth century. Historical evidence confirms that in 1828-29 alone 130,000 Armenians from the Middle East were resettled on the land where the Armenian Republic is located today, and later a further 600,000. The Armenians, taking advantage of the altered demographic balance, oppressed the indigenous Azeri population in various parts of the Transcaucasus in every possible way.

18. In 1918 the Azeris in the territory of present-day Armenia numbered 575,000, or over one third of the total population. However, as a result of the Armenian Government's deliberate policy of forcibly ousting the Azeri population, there is now not a single Azeri left in Armenia out of a community over half a million strong.

19. A major part in achieving the Armenian nationalists' plan to ethnically cleanse Armenia was played by the prominent Kremlin politician A. Mikoyan. Using his influence over Stalin he persuaded the "father of the peoples" to sign USSR Council of Ministers' decisions No 4083 of 23 December 1947 "On the resettlement of collective farmers and other Azeris from the Armenian SSR to the Kura-Araksin lowlands in the Azerbaijani SSR" and No. 754 of 10 March 1948 "On measures for the resettlement of collective farmers and other Azeris from the Armenian SSR to the Kura-Araksin lowlands in the Azerbaijani SSR". In line with those decisions, more than 100,000 Azeris were forcibly resettled from their traditional motherland - the mountainous regions of Armenia - to the then waterless Mugano-Minuls steppe in the period 1948 to 1951. Many of them did not survive the ordeal and perished.

20. The ousting of Azeris from Armenian territory was accompanied at the same time by grave disregard of their constitutional rights and a refusal to satisfy their national and cultural interests. Hundreds of thousands of Azeris remained in Armenia until 1988, living in compact

groups, without being granted any national or cultural autonomy. Any attempt to even raise this issue was at once roughly and cruelly suppressed. In Armenia access to employment in State organizations was practically closed to Azeris.

21. The winter of 1988 witnessed a further escalation of ethnic cleansing, the culmination of a deliberate policy to destroy the very traces of Azeri presence in Armenia. On the responsibility and with the approval of the Armenian authorities, the last 40,897 Azeri families (about 200,000 people) were forcibly deported from their traditional land on the territory of the present-day Armenian State. They all became homeless and destitute.

22. Mass expatriation was accompanied by murder and the infliction of bodily harm. During the ethnic cleansing of 1988 and 1989 a total of 216 Azerbaijanis died on Armenian territory. Most of the dead were children, women and elderly people.

23. Virtually all attacks on Azeri settlements in Armenia were approved by the Armenian authorities and were headed by leaders, senior district officials and employees of local law-enforcement agencies.

24. There were hundreds of historical monuments which bore witness to the fact that Azeris had for many centuries rightfully belonged on the territory of contemporary Armenia. During the forcible expatriation of the Azeris these were either destroyed or altered to appear Armenian. Islamic places of worship and graves at Azeri cemeteries were defiled. Mosques and graveyard memorials were destroyed or dismantled for use as building materials.

25. In order to completely obliterate the fact that Azeris had lived in Armenia, about 2,000 settlements which had previously borne Azeri names were renamed, including 465 villages between 1935 and 1973, and 97 villages in April 1991.

26. Thus the final tragic chord was struck in a meticulously planned campaign aimed at the physical extermination of the Azeri community, the largest national minority, in the Armenian Republic.

27. The prologue to armed action against Azerbaijan were the anti-constitutional acts of externally supported separatist groups in the Nagorny Karabakh region of Azerbaijan. These took place in the context of decisions taken in violation of international law by the Armenian government authorities, the most notorious of which was the resolution adopted by the Parliament of Armenia on 1 December 1989 "On the reunification of the Armenian SSR and Nagorny Karabakh". In Armenia's declaration of sovereignty of 23 August 1990, part of another State's territory - the Nagorny Karabakh region of Azerbaijan - is described as an inalienable part of the Armenian Republic.

28. The above-mentioned decisions of the Armenian Parliament were carried into effect by Armenia's armed forces, with the extensive involvement of bands of mercenaries and intense activity by the Armenian special forces and terrorist organizations against sovereign Azerbaijan, with a view to forcibly wresting from her part of her ancestral territories.

29. Notwithstanding the allegations by Armenian nationalist leaders of violation of the rights of the Armenian minority in Azerbaijan, all the basic indications of self-government were present in the Nagorny Karabakh Autonomous Region (NKAO), which had achieved significant social, economic and cultural development.

30. Under the Constitution of the Azerbaijani SSR, the legal status of NKAO was defined by the Nagorny Karabakh Autonomous Region Act as proposed by the NKAO Soviet of People's Deputies and adopted by the Supreme Soviet of Azerbaijan. The Nagorny Karabakh region, being a national and territorial unit, had a form of administrative autonomy and accordingly enjoyed a number of rights which in practice ensured that its population's specific needs were met. Under the Constitution of the former USSR the Nagorny Karabakh Autonomous Region was represented by 5 deputies in the Nationalities Council of the USSR Supreme Soviet. NKAO was represented by 12 deputies in the Supreme Soviet of the Azerbaijani SSR.

31. The NKAO Soviet of People's Deputies - the government authority in the region - had a wide range of powers. It decided all local issues on the basis of the interests of the region's inhabitants and of its ethnic and other particularities. The NKAO Soviet of People's Deputies participated in discussion of issues of Republic-wide significance and made suggestions on them, implemented the decisions of superior government authorities and guided the work of subordinate Soviets. All State executive and administrative organs, the judiciary, the Procurator's Office and the education system worked in Armenian in accordance with the language needs of the population.

32. Capital investment in the development of NKAO during the period 1971-85 amounted to 483 million roubles, or 2.8 times as much as in the previous 15 years. In 20 years per capita capital investment in NKAO increased nearly four-fold (226 roubles in 1981-85 against 59 roubles in 1961-65). In 15 years housing space increased by 3.64 square metres per person in Azerbaijan as a whole, but by 4.76 square metres per person in NKAO. The number of hospital beds per 10,000 inhabitants increased by 15 per cent more in NKAO than in the rest of the Republic.

33. Although the NKAO was already quite well-endowed with pre-school institutions, the increase in pre-school places per 10,000 inhabitants during the period 1971-1985 was 1.4 times the national average. Similarly the growth in the number of places in general-education schools per 10,000 inhabitants was 1.6 times the national average.

34. The fact that provision of housing, goods and services was superior to that in the Republic as a whole was typical of the social and cultural development of the region. The apartment area per person in the region was almost one third above the national average; in rural areas, housing space per capita was 1.5 times the national average. The population of the region was also better supplied with medium-level medical staff and hospital beds (respectively 33 per cent and 3 per cent above the national average).

35. There was a more extensive network of institutions providing cultural and information services (more than 3 times as many cinemas and clubs and twice as many libraries) as well as 1.6 times as many books and magazines per 100 readers. Of the region's

chi¹dren, 7.7 per cent attended school in the second or third shift (national average: 25 per cent), and 37 per cent had access to a permanent pre-school place (national average: 20 per cent).

36. In fact the NKAO was developing more rapidly than Azerbaijan as a whole. Thus, whereas industrial output in the Republic increased three-fold between 1970 and 1986, it grew by a factor of 3.3 (and 8.3 per cent faster) in NKAO. In 1986, growth in fixed assets by comparison with 1970 measured 3.1 in NKAO and 2.5 in Azerbaijan as a whole. In terms of the main social-development indicators NKAO was ahead both of the Azerbaijani SSR and of the Armenian SSR. Lastly, culture developed significantly in NKAO, as in Azerbaijan in general.

37. Accordingly, and as the experience of the NKAO's experience and development within Azerbaijan confirms, the form of autonomy which had evolved was entirely appropriate to the Autonomous Region's specific social, cultural, ethnic and other characteristics.

38. Full-scale hostilities began in late 1991/ear¹y 1992, when Armenian armed units engaged in fighting in the Nagorny Karabakh region of Azerbaijan, using the most modern weapons systems. As from May 1992 hostilities spread beyond the confines of the former Nagorny Karabakh Autonomous Region to other regions of Azerbaijan. As a result of the war, which started over seven years ago, the armed forces of Armenia have occupied and are holding 20 per cent of the total territory of Azerbaijan, including the Nagorny Karabakh region and territory totalling four times the area of that region.

39. The following is the chronology of the seizure of Azerbaijani towns and districts:

28 February 1992 - Khodzhaly;

8 May 1992 - Shusha;

18 May 1992 - Lachin;

3 April 1993 - Kelbajar;

28 June 1993 - Agdere;

23 July 1993 - Agdam;

23 August 1993 - Fizuli;

26 August 1993 - Djebrail;

31 August 1993 - Kubatly;

28 October 1993 - Zangelan.

40. As a result of the aggression and ethnic cleansing of Azeris both from the territory of Armenia itself and from the occupied Azerbaijani lands, there are over one million refugees and *displaced* persons in Azerbaijan today, including people belonging to various minorities. In

humanitarian terms a disastrous situation has evolved in Azerbaijan. Every year hundreds of old people, women and children die in the refugee camps as a result of disease and epidemics.

41. Since the aggression began, over 900 settlements have been plundered and destroyed. Armenia's aggression against Azerbaijan and the destruction of settlements is accompanied by barbaric pillaging and removal of property and valuables from occupied Azerbaijani territory to Armenia. The goods and valuables removed are resold to third countries, and the proceeds are used to finance the continuation of the war.

42. In the course of the war the armed forces of Armenia have plundered 113,000 residential buildings with a total area exceeding 9 million square meters. All the contents of these houses have been removed. The total value of the destroyed homes and stolen property runs into tens of billions of dollars.

43. In its resolutions 822 (1993) of 30 April 1993, 853 (1993) of 29 July 1993, 874 (1993) of 14 October 1993 and 884 (1993) of 11 November 1993 the United Nations Security Council condemned the occupation of the territory of the Azerbaijani Republic, reaffirmed respect for the sovereignty, territorial integrity and inviolability of the borders of the Azerbaijani Republic and the inadmissibility of the use of force for the acquisition of territory, and demanded the immediate cessation of hostilities and hostile acts as well as the immediate, complete and unconditional withdrawal of all occupying forces from the occupied districts of Azerbaijan.

44. At the most recent OSCE summit meeting the following principles were worked out for settling the armed conflict, recommended by the Co-Chairmen of the OSCE Minsk Group and supported by all the OSCE member states with the exception of Armenia:

> Territorial integrity of the Armenian Republic and the Azerbaijan Republic;
>
> The legal status of Nagorny Karabakh as defined by an agreement based on self-determination and affording Nagorny Karabakh the highest degree of self-government within Azerbaijan;
>
> Guaranteed security for Nagorny Karabakh and its entire population, including mutual responsibility to ensure that all parties observe the provisions of the settlement.

45. In spite of the unambiguous demands of the United Nations Security Council and the other above-mentioned organizations, Armenia continues to this day to hold occupied Azerbaijani territory and build up its military capability there.

II. INFORMATION ON INDIVIDUAL ARTICLES OF THE COVENANT

ARTICLE 1

46. The Azerbaijan Republic confirms its unswerving commitment to the self-determination of peoples and to their right freely to determine their political status and freely to pursue their economic, social and cultural development.

47. Article 16 of the Constitutional Act on the State Independence of the Azerbaijan Republic provides that "The Azerbaijan Republic shall, in accordance with the generally recognized rules of international law, build its relations with other States on the basis of the principles of the sovereign equality of States, the non-use of force or of the threat of force, the inviolability of State frontiers, the settlement of disputes by peaceful means, non-intervention in the internal affairs of other States, respect for human rights and fundamental freedoms, the equality of peoples and their right to self-determination, cooperation between States and the fulfilment in good faith of international legal obligations".

48. The right of peoples to self-determination is of exceptional importance for the people of Azerbaijan, which, through its consistent realization of that right, has lawfully re-established its independence.

49. The Azerbaijani Constitution, which was adopted by national referendum on 12 November 1995 and came into force on 27 November of that year, states, in article 2, that it is the sovereign right of the people of Azerbaijan freely and independently to decide their own fate and determine their form of government.

50. The article continues: "The people of Azerbaijan shall exercise their sovereign right directly through nation-wide voting (referendums) and through representatives elected on the basis of universal, equal and direct suffrage by free, secret and personal ballot".

51. The Azerbaijan Republic is firmly convinced of the need to extend comprehensive support to peoples fighting for their liberation and the restoration of their fundamental rights, the most important of which is the right of self-determination.

52. It is also convinced that the guiding principles of democratic societies - equality, the rule of law, respect for human rights, freedom of choice, and tolerance - should be applied in the same degree to international relations. Such relations should be founded on the principles of the sovereignty, equality and territorial integrity of States, non-interference in each other's internal affairs and peaceful coexistence.

53. Azerbaijan further believes that realization of the right of self-determination must not be used as a pretext for infringement of the territorial integrity, national unity or ethnic harmony of independent States. In its view, the right of peoples to self-determination should be given its original, true significance; that would not erode, but on the contrary strengthen the national independence, sovereignty and territorial integrity of States whose governments reflect the interests of all members of their populations without distinction.

ARTICLE 2

54. The protection of citizens' rights and freedoms is considered a decisive factor for the existence of a democratic State.

55. Article 19 of the Constitutional Act on the State Independence of the Azerbaijan Republic provides that "All citizens of the Azerbaijan Republic are equal before the law".

56. It further provides that, as a subscriber to the Universal Declaration of Human Rights, the Helsinki Final Act and other generally recognized international legal instruments, Azerbaijan shall ensure the observance and unhindered exercise of all the rights and freedoms enunciated in them, without distinction as to sex, race, nationality, religion, social origin, political convictions or other circumstances.

57. Pursuant to article 7 of the Constitution, State power in Azerbaijan is limited only, in the case of internal affairs, by the law and, in the case of foreign affairs, by provisions deriving from international agreements to which Azerbaijan is a party.

58. Pursuant to article 148 of the Constitution, international agreements to which Azerbaijan is a party form an integral part of Azerbaijani law. Article 151 of the Constitution provides that, in the event of conflict between normative instruments forming part of Azerbaijani law (including the Constitution of the Azerbaijan Republic and instruments adopted by referendum) and international treaties to which Azerbaijan is a party, the international treaties shall apply.

Measures to secure the rights embodied in the Covenant and description of the means of legal protection

59. Chapter III of the Constitution is devoted to the fundamental human and civil rights and freedoms. The content of its main articles is set out below:

Article 24. Main principles of human and citizens' rights and freedoms

From birth, everyone enjoys inviolable, inalienable rights and freedoms. The rights and freedoms also include everyone's responsibility and obligations towards society and other persons.

Article 25. The right to equality

1 Everyone is equal before the law and the courts.

2 Men and women have equal rights and freedoms.

3 The State guarantees the equality of everyone's rights and freedoms irrespective of race, nationality, religion, language, sex, origin, property or official status, , or membership of political parties, trade unions or other voluntary organizations. beliefs Limitation of human or citizens' rights or freedoms on grounds of race, nationality, religion, language, sex, origin, beliefs or political or social affiliation is prohibited.

60. Articles 27-70 of the Constitution concern the principal rights and freedoms of citizens of the Azerbaijan Republic, in particular: the right to life; the right to freedom; the right to property; the right to inviolability of the person; the right to inviolability of the home; the right to marry; the right to work; the right to strike; the right to health care; and the rights to freedom of thought and speech, conscience, information, assembly, etc.

61. The proclamation of these rights and freedoms in the Constitution signifies that their validity derives directly from the country's basic law. That strengthens the guarantees of their protection.

62. Following the restoration of independence, a whole series of legislative instruments concerning human rights was adopted in Azerbaijan. They include the: Courts and Judges Act; Elections (President of Azerbaijan Republic) Act; Elections (National Assembly of the Azerbaijan Republic) Act; Freedom of Religion Act; Culture Act; Education Act; Mass Media Act; Political Parties Act; Voluntary Organizations Act; Trade Unions Act; Legal Status of Aliens and Stateless Persons in the Azerbaijan Republic Act; Constitutional Court Act; Municipalities Act; and Elections (Municipal Organs) Act.

63. A number of presidential Decrees have been adopted for the purposes of promoting and protecting human rights in Azerbaijan. They include the Decrees on: measures for safeguarding human and civil rights and freedoms; the State programme for the protection of human rights; additional measures to safeguard the freedoms of expression, opinion and information; the celebration of the fiftieth anniversary of the Universal Declaration of Human Rights; protection of the rights and freedoms, and State support for the development of the languages and cultures of national minorities and small peoples and ethnic groups living in the Azerbaijan Republic.

64. Pursuant to the Order signed by the President of the Azerbaijan Republic on 16 April 1998 concerning the celebration in the country of the fiftieth anniversary of the Universal Declaration of Human Rights, human rights seminars were held for representatives of non-governmental organizations and the mass media, there were television and radio broadcasts concerning the protection of human rights, human rights textbooks were published for higher and secondary educational establishments and information on the protection of human rights in Azerbaijan was disseminated over the Internet, etc.

65. The right to equal participation in the cultural life of society is guaranteed by the new Culture Act of 6 February 1998.

66. The Elections (President of the Azerbaijan Republic) Act of 9 June 1998 and the Central Electoral Commission of the Azerbaijan Republic Act of 15 May 1998 were adopted to enable citizens of the country to exercise the suffrage guaranteed by the Constitution.

67. The State Programme for the Protection of Human Rights approved by the presidential Decree of 18 June 1998 provides for human rights training at the Ministry of Justice's Institute of Further Training for Legal Officers and at the Police Academy for officials of courts, the Procurator's Office, the police, lawyers and instructors at higher educational establishments specializing in law.

68. On 6 August 1998, the President of the Azerbaijan Republic issued his Decree on Additional Measures to Safeguard the Freedoms of Expression, Opinion and Information.

69. On 19 August 1998, the President of the Azerbaijan Republic issued his Decree on Additional Measures to Ensure a Higher Level of Legal Education and the Broad Dissemination of Information on Human Rights Protection and Electoral Law.

70. On 30 September 1998, the Parliament adopted a new Citizenship Act drafted with the help of experts from the Council of Europe and the Office of the United Nations High Commissioner for Refugees.

71. The Azerbaijani Government cooperates actively and fruitfully with the United Nations Commission on Human Rights.

72. In her report to that Commission at its fifty-fifth session, Ms. Asma Jahangir, the Special Rapporteur for extrajudicial, summary or arbitrary executions, thanked the Government of Azerbaijan for its numerous replies and commended it for having taken further measures to promote and protect its citizens' human rights.

73. Azerbaijani law prohibits and severely penalizes violation of the human rights and freedoms provided for in the Constitution.

74. For example, the Criminal Code contains an entire chapter devoted to offences against citizens' political and labour rights. Its articles set out the penalties for impeding women's enjoyment of equal rights (art. 131), failing to respect the inviolability of citizens' homes (art. 132), violating the privacy of correspondence, telephone conversations and telegraphic communications (art. 133), impeding the exercise of suffrage (art. 134), forging electoral documents, improperly counting votes or violating electoral secrecy (art. 135), breaching labour law (art. 136), violating the labour rights of pregnant women or nursing mothers (art. 138), harassing citizens for the utterance of criticism (art. 138-1), violating trade union rights (art. 139), violating copyright and inventors' rights (art. 140), and impeding the holding of religious ceremonies (art. 142).

75. The Criminal Code also provides penalties for torture and other infringements of persons' physical integrity (Chapter 3, Crimes against the Person), as well as for property crimes (Chapter 2-A).

76. Pursuant to article 60 of the Constitution, everyone has the right to protection by the courts of their rights and freedoms, as well as the right to challenge before the courts the actions (or inaction) of State bodies, political parties, trade unions or other voluntary organizations and officials.

77. Under article 61 of the Constitution, everyone has the right to qualified legal assistance.

78. Where the law so provides, legal assistance is given free of charge, at the State's expense. Everyone is entitled to the services of a defence counsel from the moment officials of State organs detain them, arrest them or charge them with an offence.

79. Article 59 of the Code of Criminal Procedure provides that victims of moral, physical or material damage as a result of a crime, and their representatives, are entitled to submit evidence and petitions, to acquaint themselves with all of the material in the case and, upon completion of the pretrial investigation, to participate in the court hearings, challenge the appointment of judges

or other officials, protest the actions of the person who conducted the initial inquiry or pretrial investigation or of the procurator or court and appeal against judicial verdicts or findings and the judge's orders.

80. Under article 316 of the Code of Criminal Procedure, victims are entitled to participate in pleadings only in cases involving crimes covered by articles 106, 108, 121 and 122 of the Criminal Code. As that is contrary to the new Constitution, the Constitutional Court adopted, on 4 June 1999, an Order recognizing those restrictions of victims' rights as invalid and stating that in all cases victims must be guaranteed the right to participate in the oral-argument phase of court proceedings.

81. Persons who have suffered material damage as a result of a crime are entitled in the event of criminal proceedings to bring a civil action against the accused or the persons materially liable for his acts. The court will examine that suit jointly with the criminal case (art. 51).

82. The following may constitute grounds for the opening of a criminal case:

1. Declarations by members of the public;

2. Communications from trade unions or other voluntary organizations;

3. Communications from enterprises, institutions, organizations or officials;

4. Communications published in the press;

5. Offenders' voluntary confessions to the authorities;

6. Direct discovery by a procurator, investigator, organ of initial inquiry or court of circumstances indicative of the commission of a crime (art. 104).

83. Victims and their lawful representatives are entitled to appeal court verdicts by way of cassation.

84. Civil plaintiffs and defendants and their representatives are entitled to appeal verdicts with respect to the civil suit. Persons acquitted by a court are entitled to appeal verdicts by way of cassation with respect to the reasons and grounds for the acquittal (art. 344).

85. Regarding the protection of citizens' rights and freedoms, there follows a more detailed description of the machinery for recourse by citizens to the Constitutional Court.

86. Article 4 of the Constitutional Court Act states that "The Constitutional Court shall, in its activity, protect citizens' rights and freedoms. Should normative instruments in force violate personal rights or freedoms, citizens may apply through the relevant courts to the Supreme Court of the Azerbaijan Republic for the submission to the Constitutional Court of a request for a ruling on their constitutionality".

87. Anyone may raise through the courts of general jurisdiction the question of the constitutionality of a law or of any other normative instrument. Similar action may be taken during judicial proceedings by any of the parties thereto which considers that a normative instrument applicable to the case is unconstitutional.

88. Pursuant to article 4 of the Constitutional Court Act, the procedure for the exercise of the right to which it refers is governed by the Courts and Judges Act and the law on civil and criminal procedure. Under article 79 of the Courts and Judges Act, the Plenum of the Supreme Court can request rulings on constitutionality from the Constitutional Court on the basis of submissions from citizens concerning violation of their rights or freedoms by a given normative instrument and on the basis of direct applications by judges. This provides a means of access by members of the public to the Constitutional Court.

89. Hence, citizens have acquired the right of appeal, via the courts of general jurisdiction and the Supreme Court, to the Constitutional Court for the protection of their rights.

90. Under this procedure, a citizen has the opportunity to appeal first for the protection of his rights to a general court. When courts have exhausted the remedies within their competence, they are obliged to request the Constitutional Court, through the Supreme Court, to verify the constitutionality of the legislation in question.

91. Should a citizen consider that a rule applied by a court violates his rights or freedoms or is unconstitutional, he may personally directly request the court to transmit his complaint to the Supreme Court for the requesting of a ruling on constitutionality from the Constitutional Court.

92. In addition, should doubt arise as to the constitutionality of a law, the judge in a case may appeal directly to the Constitutional Court through the Supreme Court.

93. One court's decision on a given case is not binding on other courts.

94. The difference between general courts and the Constitutional Court is that the latter is entitled to proclaim legal provisions unconstitutional, in which event they cease to apply.

95. Article 130 of the Constitution empowers the Constitutional Court to rule, in the cases provided for by law, on the conformity of decisions of the Supreme Court with the Constitution and laws of the Azerbaijan Republic.

96. With reference to appeals by individuals to the Constitutional Court, the first need is to look at the hierarchy, in terms of legal force, of normative instruments (instruments subject to the Constitution).

97. The Constitution provides that the law of the Azerbaijan Republic shall comprise the following:

The Constitution, and Constitutional instruments adopted by referendum;

Acts;

Presidential Decrees;

Decisions of the Cabinet of Ministers;

Normative instruments adopted by central organs of executive power.

98. Local organs of executive power are also entitled, within the limits of their competence, to adopt normative instruments.

99. Instruments adopted by municipalities are also subject to the Constitution.

100. Hence, all rules, whatever the type of instrument in which they appear, are subject to the Constitution.

101. The Plenum of the Constitutional Court is empowered, under the Courts and Judges Act, to entertain judges' appeals regarding constitutionality, review the decision in question and, should it agree with the appeal, submit the matter to the Constitutional Court.

102. The Constitution empowers the Supreme Court to give explanations to judges.

103. Proceedings before the Constitutional Court are of two kinds:

1. Constitutional proceedings;

2. Special constitutional proceedings.

104. By law, Supreme Court requests for a ruling on constitutionality that are based on individuals' complaints that normative instruments are unconstitutional are examined in constitutional proceedings.

105. The Constitutional Court must, within seven days, take up such matters and decide for or against examining the request.

106. Requests which it is decided to examine must be examined within two months. The Constitutional Court's decisions on them become effective from the time specified in the decisions themselves.

The legal status of aliens

107. Aliens' legal status is governed by the Constitution, the Labour Code that came into force on 1 July 1999 and the Legal Status of Aliens and Stateless Persons in the Azerbaijan Republic Act of 13 February 1996.

108. Pursuant to article 69 of the Constitution and article 4 of the Legal Status of Aliens and Stateless Persons in the Azerbaijan Republic Act, aliens and stateless persons enjoy all rights and

freedoms and discharge all obligations on an equal footing with citizens of the Azerbaijan Republic, except as otherwise provided by law or by an international treaty to which Azerbaijan is a party.

109. The rights and freedoms of aliens or stateless persons permanently or temporarily resident in the territory of the Azerbaijan Republic may only be limited in accordance with international law and the law of the Azerbaijan Republic.

110. Article 4 of the Legal Status of Aliens and Stateless Persons Act provides that aliens and stateless persons in the Azerbaijan Republic are equal before the law and the courts irrespective of their race, colour, sex, language, religion, birth, political or other beliefs, national or social origin, property status, type or nature of activity or other circumstances.

111. Should a foreign State establish restrictions on Azerbaijani citizens' exercise of rights and freedoms within its territory, corresponding restrictions on that State's citizens within Azerbaijani territory may be established by Azerbaijani law.

112. Aliens have exactly the same entitlement to the protection of their rights as Azerbaijani citizens. They may have recourse to the courts, organs of executive power, lawyers and the Procurator's Office.

113. Article 13 of the Labour Code provides as follows:

> "1. Unless otherwise provided by law or by international treaties to which the Azerbaijan Republic is a party, aliens and stateless persons shall, when in the Azerbaijan Republic, enjoy all labour rights equally with citizens of the Azerbaijan Republic and shall have obligations in accordance with those rights.
>
> 2. Except in the cases provided for by law, restriction of the labour rights of aliens and stateless persons provided for in the present Code and other normative instruments is prohibited.
>
> 3. The establishment in the sphere of labour relations of preferential rights for aliens and stateless persons by comparison with the rights of citizens of the Azerbaijan Republic is prohibited."

ARTICLE 3

114. In accordance with article 18 of the Convention on the Elimination of All Forms of Discrimination against Women (Azerbaijan acceded to the Convention on 30 June 1995), the Azerbaijani Government has submitted an initial report on the legislative, judicial, administrative and other measures adopted to give effect to the provisions of the Convention. The Committee on the Elimination of All Forms of Discrimination against Women examined that report during its eighteenth session, held in January 1998.

115. The principle of the equality of men and women is reflected in the Constitution, the Criminal Code, the Marriage and Family Code, labour law, the Courts and Judges Act and other Azerbaijani legislation.

116. Article 25 of the Constitution provides that everyone is equal before the law and the courts and that men and women have equal rights and obligations.

117. In accordance with article 11 of the Convention on the Elimination of All Forms of Discrimination against Women, article 35, section II, of the Constitution guarantees everyone the right to the free choice, on the basis of their ability to work, of their type of activity, profession, occupation and place of work.

118. Azerbaijan has been a member of the International Labour Organization since 1992 and has ratified over 50 of that body's Conventions, including several concerning women's rights in the spheres of employment and occupation:

C45, Underground Work (Women) Convention;

C100, Equal Remuneration Convention;

C103, Maternity Protection Convention (Revised);

C111, Discrimination (Employment and Occupation) Convention.

119. The Labour Code that came into force on 1 July 1999 maintains the previously existing rules concerning women's labour rights. Thus, article 16, section 2, provides that the granting to women, the disabled, persons below the age of 18 and other people requiring social protection of advantages, privileges and additional safeguards in the sphere of labour relations will not be considered discrimination.

120. Article 154, section 2, of the Labour Code states that "All forms of reduction in workers' wages that contravene the bans on discrimination set forth in article 16 of the present Code, and the setting for workers of wages below the minimum fixed by the State are prohibited".

121. With respect to labour protection, working time, holidays and various other conditions of work, women enjoy certain advantages. These are set out in the section of the Code entitled "Particularities of the regulation of labour relations for women and workers below the age of 18 and in the agricultural sector" (arts. 240-246).

122. In particular, the Code prohibits:

Refusal to hire women because they are pregnant or have children below the age of three, and reduction of women's wages on the ground of their sex;

Dismissal of pregnant women, women having children below the age of three or women who are raising children single-handed and have only one paid job. The only exception is when the enterprise itself is being wound up, in which event the women must be found alternative employment;

The employment of women for arduous work, for work in hazardous conditions or for other than certain kinds of underground work;

The carriage or movement by women of loads exceeding the established limits;

Assignment of women having children aged between three and 14 to overtime work or, without their consent, to work away from their normal place of employment.

It also provides that:

Pregnant women shall, as medical evidence warrants, be subject to reduced performance criteria or be transferred to lighter and safer work payable at the average rate;

Women having children below the age of 18 months shall, in addition to the usual rest and meal breaks, be given additional breaks payable at the average rate in order to feed their children;

Pregnant women, women having children below the age of 14 and women requiring time off to care for a family member medically attested to be unwell must, at their request, be granted a shortened working day or working week;

Women are entitled to 126 calendar days' pregnancy and maternity leave (140 calendar days in the event of a difficult or multiple birth);

Women employed in agriculture are entitled to between 140 and 180 calendar days' pregnancy and maternity leave;

Whatever the duration of their basic and additional leave, working women are entitled to two calendar days' extra leave if they have two children below the age of 14 and to five calendar days' extra leave if they have three or more children below the age of 14 or a disabled child below the age of 16;

Whatever their date of recruitment, women are entitled to take immediately before or after a period of pregnancy and maternity leave the leave awarded to employees with one year's service;

Women having two or more children below the age of 14 and women having a disabled child below the age of 16 must be allowed to take their leave when they find it convenient;

Social leave to care for a child below the age of three is to be counted as part of the employee's total period of service.

123. Azerbaijan acceded to the Convention on the Political Rights of Women on 4 August 1992. The provisions of articles I, II and III of the Convention, enshrining women's rights to vote in all elections and to be elected on equal terms with men and to hold public office, are reflected in Azerbaijani law.

124. They have, for example, been fully incorporated in the Constitution (arts. 55 and 56).

125. There are at present 15 women who hold seats in the Milli Mejlis (Parliament) of the Azerbaijan Republic. That represents 12 per cent of the members of the country's supreme legislative organ. Women head the Ministry of Justice, the Economic Court and the State Committee for Women's Affairs which was established by a presidential Decree of 14 January 1998.

126. Women also head the executive authorities in four of the country's regions.

127. The principal goals and tasks of the State Committee for Women's Affairs are to preserve and protect women's rights and to increase the part women play in the country's social and political life.

128. In 1998, the Committee, together with international organizations, held seminars and practically-oriented conferences on "Women and business" and "Women and the law". A special seminar was held for the study of the "Gender" programme.

129. The first Congress of Azerbaijani Women, held at Baku on 15 September 1998, was an important event in the life of the country's women.

130. The Congress defined the main ways of further developing women's role in the life of the State.

131. The Government is drawing up a National Plan of Action for the protection and promotion of women's rights for the period 1999-2003.

132. Pursuant to article 3, paragraph 2, of the Citizenship of the Azerbaijan Republic Act of 30 September 1998, citizens of the Azerbaijan Republic have equal rights, freedoms and obligations, irrespective of their sex or other considerations.

133. Article 7 of that Act provides that neither marriage to, nor divorce from an alien or stateless person shall constitute grounds for a change in Azerbaijanis' citizenship.

134. Section 2 of the article provides that "A change in a husband's/wife's citizenship shall not constitute grounds for a change in the citizenship of his/her spouse".

135. Since 1993, there has been a strong trend towards the creation of women's non-governmental organizations.

136. Both cooperation and ties between such organizations and their foreign counterparts are increasing.

137. The Ministry of Information and the Press has registered a number of women's publications that illustrates women's social role in society. They include the newspapers Ana, Kadyn dunyasy and Kadyn ve istedad and the magazines Azerbaijan Kadyny, Djeila, etc.

138. There are also a number of women's clubs: "Ashyg Peri", "Sevil" and "Housekeeping".

139. Article 41 of the Constitution guarantees the right to health care.

140. Paragraph 1 of the article states that everyone is entitled to the protection of his/her health and the receipt of medical assistance.

141. It is noteworthy that women occupy a substantial proportion of the leading posts and functions in this sphere. Women account for approximately 35 per cent of the heads of city or regional hospitals or outpatient clinics and 90.3 per cent of middle-level medical personnel.

142. Women's right to reproductive health and family planning is viewed as one of the universal human rights. That explains the adoption in March 1996 of the State Programme for Reproductive Health and Family Planning, which is supported by the World Health Organization and the Population Fund.

143. The Family and Health Centre was opened in 1996. It has devised a genetics programme aimed at improving the nation's genetic health and reducing hereditary disorders and developmental defects, including mental and physical defects.

144. The inadequacy of health statistics has led to the adoption of the Health Statistics Programme.

145. It should be noted that health care is among the areas that have suffered most from the armed occupation of Azerbaijani territory.

146. In all, 315 health facilities, both hospitals and outpatient clinics, have been destroyed. The need to accommodate refugees and displaced persons in inadequately equipped buildings, tent camps and unfinished houses makes it difficult to provide proper sanitation and health care.

147. The Education Act of 7 October 1992 provides that citizens are guaranteed the right to education irrespective of their sex.

148. Figures for 1998 showed that there were then 6,692 female students at higher educational institutions in the Republic.

149. Women account for 40 per cent of research workers, one in 10 holders of the degree of Doctor of Sciences and almost one third of the holders of the degree of Candidate of Sciences.

150. Both male and female students at higher or specialized secondary institutions or vocational-technical schools receive study grants of identical science.

151. The proportion of female educational workers has risen to 65 per cent. However, women are still in the minority in educational management, where they constitute 14 per cent of the heads and 7 per cent of the deputy heads of institutions.

152. Matters relating to parents' rights and obligations regarding their children's upbringing and development are dealt with in articles 66-69 of the Marriage and Family Code, which provide that fathers and mothers have equal rights and obligations with respect to their children.

153. Articles 109, 110, 116 and 128 of the Criminal Code provide for measures to protect women against violence.

154. Article 215 of the Criminal Code provides for the prosecution of persons who involve minors in criminal activity, including prostitution.

155. Article 229 of the Code provides for the prosecution of brothel-keepers, panders and persons who procure women for the purposes of vice.

ARTICLE 4

156. The machinery for the declaration of states of emergency is provided for in the Constitution and the States of Emergency Act of 4 February 1992. Pursuant to article 109 of the Constitution, it is the President of the Azerbaijan Republic who has competence to declare states of emergency and martial law.

157. Under article 112 of the Constitution, the President has 24 hours to submit Decrees declaring states of emergency to the parliament for ratification.

158. Under article 94 of the Constitution, it is the parliament which establishes the general rules to be applicable in states of emergency.

159. The procedure for the application of the States of Emergency Act of 4 February 1992 is described in detail in Azerbaijan's initial report.

160. Since the publication of that report, increased aggression by the Republic of Armenia and occupation of a substantial proportion of Azerbaijani territory, a rise in the activity of terrorist groups within the country and killings of, and assaults on public figures, etc. have led to presidential declarations of states of emergency in Baku from 4 October 1994 to 2 June 1995 and in Gyanja from 11 October 1994 to 11 April 1995. The Decrees concerned came into force after being ratified by the parliament. Pursuant to article 4, paragraph 3, of the Covenant and article 31 of the States of Emergency Act, the Secretary-General of the United Nations was informed of the restrictions on citizens' rights and freedoms constituting derogations from the Covenant, of the extent of those restrictions and of the reasons for them.

ARTICLE 5

161. Detailed information concerning this article of the Covenant is given in Azerbaijan's initial report.

ARTICLE 6

162. Pursuant to article 6 of the Covenant, death sentences have not been enforced in Azerbaijan since June 1993.

163. The Amendment and Supplementing of the Criminal Code, Code of Criminal Procedure and Corrective-Labour Code (Abolition of the Death Penalty) Act of 10 November 1998 abolished the death penalty and amended the Codes named in its title accordingly, in particular by providing for imprisonment for life.

164. Azerbaijan has subscribed to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. An Act for this purpose has been passed by the parliament and was signed by the President of the Azerbaijan Republic on 11 December 1998.

165. Notification of Azerbaijan's acceptance of the Protocol was sent to the Secretary-General of the United Nations on 11 January 1999 in a document (document No. 15) signed by the Minister for Foreign Affairs.

166. The Secretary-General noted Azerbaijan's abolition of the death penalty in his report on that penalty to the fifty-fifth session of the United Nations Commission on Human Rights. Simultaneously with this, Azerbaijan was added to the list of countries (comprising 65 in all) that have abolished the death penalty.

Rules on the use of firearms

167. The use of firearms is regulated by the Service and Civilian Weapons Act of 30 December 1997 and departmental instructions. In all the instances where a police officer uses a weapon, the officer is required to take all possible steps to ensure the safety of persons in the vicinity, secure prompt medical assistance for the injured and inform their relatives or legal representatives.

168. Police officers may use their weapons, as a last resort, in the following circumstances:

To protect citizens from attacks endangering their lives or health, and to free hostages;

To repulse collective or armed attacks on police officers or other persons discharging their official obligations or public duty to protect law and order and combat crime, and to repulse other attacks that threaten the said officers' or persons' lives or health;

To repulse collective or armed attacks on citizens' homes, important or protected facilities or the premises of State or other public organs, enterprises, institutions or organizations, or attacks on combat or other units of the internal affairs authorities;

To detain persons proffering armed resistance or discovered in the commission of that offence, criminals fleeing custody, or armed persons who refuse to obey a lawful command to hand over their weapons;

To halt vehicles by damaging them when the driver genuinely endangers people's lives or health and fails to comply with repeated summons from police officers to stop;

To control animals that represent a danger to people's lives or health;

To give an alarm or summon help.

169. Use of a weapon must always be preceded by a warning of the intention to employ the arm.

170. A weapon may be employed without such a warning in the event of a surprise or armed attack, an attack involving the use of military equipment or terrestrial, airborne or waterborne vehicles, an escape from custody with a weapon or a vehicle or an escape from a vehicle while a detainee is being transported, and in order to free hostages.

171. Weapons may not be used against women or minors except in cases where such persons commit an armed attack, proffer armed resistance or participate in a collective attack that endangers lives.

172. In all instances where a police officer uses a weapon, the officer is required to take all possible steps to ensure the safety of persons in the vicinity, secure prompt medical assistance for the injured and inform their relatives or legal representatives.

173. In 1998, there were seven cases of unlawful use of service weapons by personnel of the internal affairs agencies.

174. Following investigations, six police officers were dismissed and one soldier from the internal affairs forces was prosecuted.

175. To quote an example, E. Lagidzhov, a police officer from the Quarantine Battalion of the Department of Public Safety of the Ministry of Internal Affairs, was dismissed and prosecuted for negligent bodily harm under article 107, section 1, of the Criminal Code for having, through negligence, shot and wounded another police officer, I. Eyubov, while cleaning his service weapon.

Statistics about disappearances and missing persons

176. As of 1 January 1998, 431 persons were registered as being missing; a further 508 persons were so registered in the course of the year. Searches resulted in the finding of 470 persons, or 51 per cent of the total number of missing people.

ARTICLE 7

177. In accordance with Act No. 103-IQ of 31 May 1996, which was duly passed by the Milli Mejlis and signed by the President of the Azerbaijan Republic, Azerbaijan has become a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

178. The Secretary-General of the United Nations was notified of Azerbaijan's accession to this instrument on 5 July 1996 by means of document No. 108 signed by the Minister for Foreign Affairs.

179. The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment came into force for Azerbaijan on 15 September 1996.

180. Pursuant to article 19, paragraph 1, of the Convention, the Government of Azerbaijan submitted the country's initial report to the Secretary-General of the United Nations on 16 November 1998 for the consideration of the Committee against Torture.

181. Azerbaijani law contained and continues to contain rules providing for liability in the event of: action ultra vires accompanied by violence or humiliating acts; abuse of authority or official position that results in damage to citizens' legally protected rights and interests; other acts by officials that infringe constitutionally-guaranteed personal rights and freedoms.

182. For example, article 46 of the Constitution proclaims the right of Azerbaijani citizens to the protection of their honour and dignity and prohibits torture, systematic or brutal violence, and degrading treatment or punishment.

183. The Azerbaijani Criminal Code contains the following articles that set out the content of the offences falling within the concept of "torture":

> extortion of property (art. 93-6); incitement to suicide (art. 100); threatening of murder (art. 101); punishable infliction of bodily harm (arts. 102, 105, 106); beatings and systematic or brutal violence (art. 108); unlawful deprivation of liberty (art. 120); unlawful internment in a psychiatric hospital (art. 122); abuse of authority or official position (art. 167); exceeding of authority or official powers (art. 168); prosecution of a party known to be innocent (art. 174); utterance of a knowingly unjust verdict, decision, finding or order (art. 175); threats against a judge or people's assessor (art. 175-2); knowingly unlawful short-term or pretrial detention (art. 176); coercion to give testimony (art. 177); constraint or suborning of a defendant, witness, victim, expert or interpreter (art. 180); abuse or exceeding of, or failure to use authority (art. 255); and ill-treatment of prisoners of war (art. 263).

184. Mention should also be made of the Health Care Act of 26 June 1997, which establishes the following as the principles of public health care:

> Safeguarding by the State of citizens' health rights, and the liability in that regard both of juridical and of physical persons;

Prophylaxis;

Accessibility to all of medical assistance;

Social protection of citizens in the event of health problems.

185. To give effect to those principles, article 52 of the Act provides that "persons graduating as doctors from an institution of higher medical education in the Azerbaijan Republic shall take the Hippocratic Oath. Doctors who breach that Oath shall incur liability as provided by law".

186. Article 57 of the Act provides that persons guilty of damaging health "shall compensate for the damage in the manner and to the extent provided for by law. The compensation of damage shall not free medical workers from the disciplinary, administrative or criminal liability provided for by law".

187. Pursuant to article 46, section III, of the Constitution, which provides that "No one may be subjected to medical, scientific or other experiments without their voluntary consent", article 37 of the Health Care Act states that:

> "In the light of the results of laboratory experiments, State or non-State medical institutions may authorize the conduct of biomedical research. Human beings may not be made the subjects of such research without their prior consent.
>
> Following the receipt of such consent, the persons concerned shall be informed of the purposes, side-effects, degree of possible risk, duration and results of the research.
>
> They shall be entitled to withdraw at any time from the research, irrespective of the stage reached in it.
>
> The advertisement in the mass media of methods of treatment, prophylaxis or diagnosis or of pharmaceuticals that have not undergone approved testing shall be prohibited."

188. Article 40, section 2, of the Act prohibits forcing people to provide organs for transplantation.

189. In addition, chapter 4 of the Act contains provisions regulating induced abortion (art. 30), sterilization (art. 31), and artificial insemination and embryo implantation (art. 29).

190. The Act stipulates that the above actions may only be carried out with the consent of the person on whom they are to be performed.

191. Azerbaijani law provides the means for safeguarding citizens against illegal acts by officials.

192. There are rules in the country's criminal law, law on criminal procedure, and administrative and corrective-labour law that prohibit the obtaining of evidence from a defendant or other parties to criminal proceedings by violence, threats or other unlawful action.

193. Azerbaijani law provides the means for safeguarding citizens against illegal acts by officials.

194. An order from a superior or a State authority cannot be invoked as a justification for torture. Furthermore, under Azerbaijani law, such acts are criminal and entail criminal liability.

195. In Azerbaijan, persons being trained for relevant occupations are taught about the ban on torture.

196. There are a number of human rights publishing, publicity and training institutions which promote public awareness of human rights.

197. Ministry of Internal Affairs training establishments provide special courses on compliance with human rights and freedoms in law enforcement for their students, who also study relevant international instruments.

198. In the training programmes for police officers, considerable attention is given to the need to treat suspects and detainees humanely.

199. The Ministry of Internal Affairs now has its own university-level academy, the Police Academy, for the training of police officers, the teaching of higher-level management courses and the provision of refresher and further training for officers with basic education. Human rights issues and basic rights, freedoms and safeguards are among the leading topics covered in these courses, especially in the law, arts and professional ethics departments.

200. The Ministry of Internal Affairs now includes special units that monitor Ministry personnel's compliance with the law and disciplinary regulations.

201. Ministry personnel who engage in threats, violence or other degrading unlawful acts against accused or other persons are subject to disciplinary penalties.

202. Should it appear that they may have committed a crime, an investigation is made and, depending on the results, the matter may be brought before a court.

Citizens' complaints of torture and their consideration

203. It is compulsory for the competent State authorities to investigate such complaints promptly and impartially. Both parties enjoy extensive legal guarantees in this regard.

204. With a view to protecting personal rights and freedoms, article 60 of the Constitution provides that "Everyone is guaranteed judicial protection of their rights and freedoms. Everyone is entitled to appeal in a court of law against the decisions and actions (or inaction) of State organs, political parties, trade unions or other voluntary organizations or officials".

205. Pursuant to the Constitution, article 5 of the Procedure for the Examination of Citizens' Petitions Act of 10 June 1997 stipulates that State organs, institutions, organizations and enterprises must, in accordance with the Constitution and the law, ensure the creation of the conditions necessary for the exercise of the rights of citizens of the Azerbaijan Republic to submit written or oral proposals, petitions, or complaints against unlawful acts (inaction) by officials.

206. Anyone who has suffered from harsh treatment, an abuse of authority or the excessive use of coercive measures is entitled to submit a complaint. The authorities cannot refuse to receive such complaints.

207. Azerbaijani citizens are entitled, on the basis of article 57 of the Constitution, to appeal personally and to make individual and collective written submissions to State organs. A written response must be made to every such approach according to the procedure and within the time-limits established by law.

208. Azerbaijani citizens have the right to criticize the activity or work of: State organs and their officials; political parties; trade unions and other voluntary organizations, and individuals. Harassment on account of such criticism is prohibited.

209. Article 61 of the Constitution gives everyone the right to qualified legal assistance. It specifies in this regard that everyone is entitled to the assistance of defence counsel from the moment that competent State organs detain them, remand them in custody or charge them with a crime.

210. State organs, institutions, organizations, enterprises and their heads and other officials are obliged to receive citizens' proposals, petitions or complaints and, within the limits of their competence and according to the procedure and within the time-limits established by law, examine them, take appropriate measures and respond to them.

211. Article 11 of the Procedure for the Examination of Citizens' Petitions Act provides that "State organs and the heads of enterprises, institutions or organizations shall be responsible for the receipt and examination of citizens' proposals, petitions and complaints. Officials who do not follow the established procedure for the examination of citizens' proposals, petitions or complaints or who harass citizens in connection with their submission or with criticism they contain shall incur administrative, civil or criminal liability as provided for by law".

212. In particular, article 104 of the Code of Criminal Procedure establishes citizens' complaints as one of the grounds for the opening of criminal proceedings.

213. Article 105 of the Code of Criminal Procedure contains a list of the offences for which criminal proceedings may be opened on the grounds of a victim's complaint alone, including complaints pursuant to article 106 and article 108, section 1.

Monitoring machinery to prevent torture

214. The Ministry of Internal Affairs has a Special Personnel Matters Unit that conducts investigations into illegal treatment of citizens by police officers.

215. For example, for illegal treatment of citizens at the Khanlar district police station during the first half of 1998, one officer was dismissed from the internal affairs agencies and four were disciplined.

216. In 1997, the Procurator's Office received 17 complaints about the improper conduct of pretrial investigations. In 1998, it received 12 such complaints.

217. Every one of these submissions from citizens was carefully examined by senior staff in the Procurator's Office and appropriate measures were taken against the officials to whom they referred.

218. Questions of relevance to strict compliance with the law in the investigation of criminal cases are reflected in the annual work plans of the Ministry of National Security and are regularly discussed in skills-improvement courses.

219. The Ministry of Internal Security's Investigation Unit has received no reports from the head of the Ministry or other high authorities of the use during questioning of methods liable to cause pain or physical or mental suffering. Attention has repeatedly been drawn to the inadmissibility of such methods.

220. It should be said that the Investigation Unit has, at various times since it was set up, received from suspects in criminal cases (in particular, Avyaz Ramazanov, Rasim Agaev and Mirzali Agalarov) complaints addressed to itself and the Procurator's Office of physical and mental pressuring of the complainants by investigators or other officials. Those complaints have, in each case, been thoroughly checked, without any evidence being found to support them.

Imposition of disciplinary penalties against penitentiary-establishment warders

221. Article 131 of the Corrective Labour Code provides that "harsh, inhuman or degrading treatment, like failure to take appropriate measures against such treatment, is incompatible with work in organs responsible for the execution of penalties".

222. In addition, the Corrective Labour Code provides for the accountability of staff at corrective-labour establishments.

223. In particular, article 132 reads: "Staff of corrective-labour establishments who engage in cruel, inhuman or degrading treatment shall be criminally and administratively liable in accordance with the law of the Azerbaijan Republic. For repeated such treatment they shall be dismissed from the system of corrective-labour agencies".

224. Convicted persons are entitled by law to submit proposals, complaints and petitions to law-enforcement organs, the Procurator's Office and the courts.

225. Pursuant to the Procurator's Office Act, the Procurator-General of the Republic and his Office's Execution of Penalties Supervisory Division regularly make thorough checks of the situation in corrective-labour establishments.

226. When the checks reveal violations, the Procurator's Office take steps to halt them and consideration is given to instituting disciplinary proceedings against the guilty officials.

227. Checks of this kind resulted in the institution of disciplinary proceedings against six people in 1997 and 15 people in the first half of 1998.

228. The checks also gave rise in the first half of 1998 to the opening of criminal proceedings against one official, who was subsequently convicted of taking bribes.

229. Three people were released from disciplinary penalties in 1997 and one person in the first half of 1998 on the grounds that the disciplinary proceedings against them had been opened unlawfully.

230. Except in one instance, the procuratorial checks of compliance with the law in corrective-labour establishments have not revealed any cases of torture or cruel or inhuman treatment by staff.

231. The Execution of Penalties Supervisory Division of the Procurator's Office received a total of 278 complaints and petitions from convicted persons and their relatives in 1997 and 188 such submissions in the first half of 1998.

232. In most of these cases, measures were taken by the Supervisory Division itself and the petitioners were sent written replies.

233. For example, in 1977, Kh. Ismailov, a warder at Corrective-Labour Colony No. 11 of the Ministry of Justice's Chief Department for the Execution of Judicial Decisions caused moderate bodily harm to a prisoner. The Prosecutor's Office opened criminal proceedings against Ismailov and he was subsequently sentenced by the Binagady District Court in Baku to three years' deprivation of liberty.

Arrangements for contact between detainees and the outside world

234. Under Azerbaijani corrective-labour law, convicted persons have the right of contact with the outside world. In particular, they may, depending on the regime to which they have been sentenced, be entitled to short or longer meetings with visitors (up to four hours or three days respectively), unlimited correspondence, short periods of leave, and telephone conversations (up to 15 minutes).

235. In order that convicted persons may receive legal assistance, the law entitles them to meetings of unlimited duration and number with counsel.

236. All penitentiary establishments have medical facilities capable of providing ambulatory and bed care. Prisoners are given a medical examination on entering a remand centre, corrective-labour establishment or prison.

237. Detainees are given medical treatment when necessary.

ARTICLE 8

238. There are no instances of slavery, slave trading, servitude or forced or compulsory labour in Azerbaijan.

239. To give effect to article 8 of the Covenant, Azerbaijan acceded on 31 May 1996 to the: Slavery Convention; Protocol amending the Slavery Convention; Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.

240. Pursuant to article 35 of the Constitution and article 1 of the Employment of the Population in the Azerbaijan Republic Act of 27 June 1991, it is forbidden, except in the cases provided for by law, to force people to perform any kind of labour.

241. Azerbaijani law guarantees equal opportunities for the exercise of the right to work and the right of free choice of occupation to all citizens resident in the country, irrespective of their race, birth, national or ethnic origin or other circumstances.

242. Article 8 of the Employment of the Population Act provides that citizens registered with the State employment service as job-seekers are entitled to free employment counselling, to vocational training and to information enabling them to choose their type of occupation and place and conditions of work.

243. Article 16 of the Labour Code categorically prohibits differential treatment of workers on grounds of their citizenship, sex, race, religion, nationality, language, place of residence, property status, social group, age, family status, beliefs, political opinions, membership of trade unions or other voluntary associations, rank within the enterprise, occupational skills or other criteria unconnected with the results of their work. It also prohibits the awarding of advantages or privileges and the restriction of rights on those grounds.

244. Under article 41 of the Administrative Offences Code, officials who violate labour law are liable to a fine of from 12 to 14 times the minimum monthly wage.

245. Article 136 of the Criminal Code establishes criminal liability for breaches of labour law.

246. Article 21 of the Employment of the Population Act provides for further-training and retraining courses for job-seekers.

247. Azerbaijan has a State Labour Inspectorate. It was established by a presidential Decree of 27 January 1997 and its functions include monitoring of observance of labour law. There is therefore no possibility of offences of a discriminatory nature.

248. Hard labour is not among the penalties imposable under Azerbaijani law.

The legal bases of military service

249. In Azerbaijan, the purpose of military service is to ensure that the Armed Forces have sufficient personnel to be able to fulfil the tasks entrusted to them by the Constitution, the Constitutional Act on the State Independence of the Azerbaijan Republic and the Armed Forces of the Azerbaijan Republic Act.

250. The law on conscription is intended to define the foundations for compulsory military service, the procedure for training young people for military service, the conditions and procedure for the call-up to, and acceptance for such service, the procedure for registering persons as liable to military service and as conscripts, the grounds for mobilization and demobilization, and the procedure for training officers for the Armed Forces and maintaining the Armed Forces' mobilization readiness.

251. Pursuant to article 9 of the Constitution and article 29 of the Constitutional Act on the State Independence of the Azerbaijan Republic, defence of the country and military service are sacred duties of citizens of the Azerbaijan Republic. Military service for the periods and in the forms provided for by law is obligatory.

252. The country's Armed Forces exist to safeguard national sovereignty and the integrity and inviolability of the national territory, to protect national interests, and to prevent armed attacks on the country and aggression.

253. With the exception of persons assigned to alternative service (labour), every able-bodied male citizen of Azerbaijan aged 18 or more is obliged to serve in the Armed Forces for a period of 18 months or to undergo training for periods of from one to three months. Citizens who, because of their beliefs or for other reasons recognized by law, are unable to perform military service must perform alternative service (labour) for a period of 24 months.

254. More detailed and clearer statements of the rights and obligations regarding conscription and the performance of military service can be found in the following legislation:

The Constitution (arts. 11 and 112);

The Constitutional Act on the State Independence of the Azerbaijan Republic (art. 29);

The Armed Forces Act (arts. 1, 2 and 3);

The Defence Act (preamble and arts. 1 and 13-18);

The Status of Military Personnel Act (arts. 1 and 6-31);

The Call-up for Military Service in the Azerbaijan Republic (Fundamentals) Act (arts. 1, 2, 8, 16-21, 24-26 and 28-29);

The Pension Arrangements for Military Personnel Act;

The Regulations on the Performance of Military Service.

ARTICLE 9

Forms of, and procedure for deprivation of liberty

255. The forms of, and procedure for deprivation of liberty are governed by the Code of Criminal Procedure.

256. Pre-trial detention as a preventive measure (Code of Criminal Procedure, art. 89) is permitted only on decision of a court or with the approval of a procurator, and then only in cases where the law provides for a penalty in the form of more than one year's deprivation of liberty.

257. In exceptional circumstances, this preventive measure may also be employed (depending on the nature of the offence, the personality of the culprit and other circumstances) in connection with an offence for which the law provides for a penalty of less than one year's deprivation of liberty.

258. For the most serious crimes, a suspect may, as an exception and on the grounds of article 167 of the Code of Criminal Procedure, be placed in preventive detention before a charge has been brought. If there is no indictment within 10 days, the measure ceases to apply and the suspect is released.

259. Orders for remand in custody must indicate the specific circumstances giving rise to the measure.

260. In deciding whether to approve pre-trial detention, a procurator must carefully study all the material containing grounds for such a measure and must, where necessary, personally question the suspect or accused. Such questioning is compulsory when the suspect or accused is a minor.

261. Orders for pre-trial detention only become enforceable on receipt of the approval of the procurator concerned.

262. Pursuant to article 85 of the Code of Criminal Procedure, account is taken in deciding what preventive measure to apply against an accused of the threat which the individual represents to society, of any previous convictions, of the seriousness of the offence and of the accused's age, health, family status and other personal circumstances.

263. Short-term detention of a person suspected of having committed a crime, i.e. detention until the person is formally charged, is permitted pursuant to article 119 of the Code of Criminal Procedure if:

1. The person was discovered committing or immediately after having committed the offence;

2. Eyewitnesses, including the victim, directly identify the person as the offender;

3. Clear traces of the crime are found on or near the suspect, on his clothing or at his home. When the evidence giving grounds for suspecting someone of having committed a crime is different, the person may only be detained if he tries to flee or if he has no permanent abode or his identity cannot be established.

264. Pursuant to article 122 of the Code of Criminal Procedure, all cases of short-term detention of suspects must be reported in writing and within 24 hours to the procurator responsible for supervising compliance with the law.

265. The procurator must, within 48 hours of receipt of the notice of detention, give approval for remand in custody or release the person.

Legal guarantees and means of legal protection in the event of deprivation of liberty

266. Legal guarantees and means of legal protection in the event of deprivation of liberty are provided in the following articles of the Constitution:

Article 26, Protection of human and citizens' rights and freedoms;

Article 28, The right to liberty;

Article 60, Judicial safeguarding of rights and freedoms;

Article 63, The presumption of innocence;

Article 64, Inadmissibility of repeated conviction for the same crime;

Article 67, The rights of persons in short-term detention, remand prisoners and persons charged with a crime ;

Article 68, The rights to demand compensation for damage;

Article 69, The rights of aliens and stateless persons. According to this article, aliens and stateless persons present in Azerbaijan are entitled to all rights and must fulfil all obligations equally with citizens of the Azerbaijan Republic unless the law or an international treaty to which Azerbaijan is a party provides otherwise;

Article 71, Protection of human and citizens' rights and freedoms. This article makes protection of the human and citizens' rights and freedoms enshrined in the Constitution obligatory for the country's legislative, executive and judicial organs. Disputes concerning the violation of such rights and freedoms are settled by the courts.

267. The State Protection of Parties to Criminal Proceedings Act was adopted on 11 December 1998, with a view to ensuring the safety of persons held in a prison or remand centre or serving a sentence in a place of deprivation of liberty.

268. Further legal guarantees and means for legal protection in the event of deprivation of liberty are provided in the following articles of the Code of Criminal Procedure:

Article 4, Inadmissibility of indictment other than on grounds and according to the procedure established by law. The effect of this rule is that no one may be charged with a crime except on legal grounds and according to legal procedure;

Article 11, Inviolability of the person. This rule states that no one may be remanded in custody otherwise than on the basis of a court decision or with a procurator's approval.

269. Procurators must immediately release anyone who has been unlawfully deprived of liberty or held in custody for a period exceeding that provided by law or a judicial sentence.

270. During a preliminary investigation, the investigator is empowered to grant interviews between the suspect and his/her relatives if any of those persons so requests.

271. Under article 57 of the Code of Criminal Procedure, suspects and accused persons are entitled from the moment of their detention and the moment of their indictment respectively to designate a counsel to defend their interests.

272. Detainees must likewise be given the opportunity to communicate with their relatives or families and to inform them of their detention and request assistance in designating the counsel of their choice.

273. If a suspect or accused person cannot afford to designate counsel, the investigating agency will appoint one at the State's expense.

274. Article 124 of the Code of Criminal Procedure gives suspects the right to submit petitions and appeal against the actions of representatives of law-enforcement agencies.

275. It is compulsory for such complaints and petitions to be examined within the time-limit set by law and for the complainant to be informed of the decision reached concerning them.

276. Article 166 of the Code of Criminal Procedure laid down detainees' right to have, with the investigator's permission, interviews with their close relatives.

277. Suspects not charged within 10 days must be released from custody.

278. Article 434 of the Code of Criminal Procedure provides for the separate detention of minors and adults and of various categories of offender. In other words, it provides for conditions of detention consistent with persons' ages and legal status and conducive to their re-education and correction.

279. The Damage to Physical Persons as a Result of Unlawful Acts by Organs of Initial Inquiry or Pre-trial Investigation, the Procurator's Office or Courts (Compensation) Act was adopted on 22 December 1998 with a view to safeguarding the rights of citizens injured by unlawful conduct by officials of law-enforcement agencies.

280. Pursuant to the presidential Decree of 13 February 1999 concerning the application of that Act, proposals are being drawn up for aligning other relevant legislation with the Act.

281. As already stated, work is also in progress on a new Code of Criminal Procedure. The aims are to:

Have a Code that is aligned with and, to the extent necessary, elaborates on the new provisions in the Courts and Judges Act concerning the principles and conditions for the administration of justice;

Democratize the process of rendering justice in criminal cases and ensure a high degree of protection for the human and citizens' rights proclaimed in the Constitution;

Enhance the courts' role in criminal proceedings as independent organs of State power and free the courts fully from indictive functions, leaving them as their only task the impartial rendering of justice on the basis of clear-cut rules.

Duration of pre-trial detention

282. The duration of pre-trial detention is regulated by the following provisions of the Code of Criminal Procedure:

Article 92, Duration of remand in custody. This rule provides that the duration of custody as a preventive measure during the investigation of a case may not exceed two months. That period may be extended in exceptional circumstances, subject to strict compliance with the law;

Article 167, Detention prior to indictment. This rule provides that exceptionally, in cases involving crimes against the State or other particularly serious offences, the investigator may choose to hold a suspect in preventive detention before a charge is brought. Such detention is subject to strict compliance with the rules set out in article 166 of the Code of Criminal Procedure.

283. As has already been said, pre-trial detention, as the severest preventive measure entailing restriction of the constitutional rights to liberty and inviolability of the person, is permitted only on the decision of a court or with a procurator's approval.

284. When deciding whether to order pre-trial detention, the procurator must personally question the presumed offender. That constitutes a reliable safeguard against unjustified detention. Procurators are required to use all their powers to detect and prevent breaches of the law and violations of citizens' rights during the investigation of cases and also carefully to check the justification for preventive detention.

Statistics regarding unlawful pre-trial detention

285. Cases of unlawful pre-trial detention are carefully investigated and the guilty parties are held to account.

286. Prosecutions for criminal offences were brought against 13,459 people in 1997 and 10,823 people in 1998. Preventive detention orders were amended against 20 persons (0.1 per cent) in 1997 and 5 persons (0.046 per cent) in 1998 on the grounds of inadequate evidence of guilt.

ARTICLE 10

Detention of persons on grounds unconnected with the commission of an offence

287. The detention of persons on grounds unconnected with the commission of an offence is governed by article 32 of the Administrative Offences Code. Administrative detention is employed only exceptionally and for a maximum of 15 days in particular types of administrative offence.

288. Administrative detention can be ordered by district (urban) people's courts (people's judges). It may not be employed against pregnant women or women having children below the age of 12, against minors or against persons in disability categories 1 or 2.

The activity of penitentiary establishments

289. In Azerbaijan, corrective-labour establishments and agencies are responsible for the execution of judicial sentences to deprivation of liberty, suspended sentences to deprivation of liberty subject to obligatory work and sentences to withholding of earnings without deprivation of liberty.

290. These institutions' and organizations' principal means of reforming and re-educating convicted persons are: the regime under which the sentence is to be served; socially useful labour; political-education work, and vocational and technical training.

291. Substantial efforts have been made in the corrective-labour establishments of the Ministry of Justice in recent years to improve the conditions of detention and to broaden inmates' rights within the penitentiary system.

292. In 1993, responsibility for the execution of criminal penalties was transferred from the Ministry of Internal Affairs to the Ministry of Justice.

293. With a view to bringing corrective-labour law into line with international standards, the Milli Mejlis passed the Amendment and Supplementing of the Corrective-Labour Code Act on 7 February 1997. This provides for the following substantial improvements in conditions of detention within the penitentiary system:

(a) Meetings with representatives of the mass media and voluntary or international organizations, as well as with lawyers, relatives and friends;

(b) Holding of religious ceremonies; medical care; changes in the types of penitentiary regime;

(c) Increases in the amounts prisoners may spend on food and basic necessities, as follows:

For "general regime" prisoners: up to twice the minimum wage;

For "reinforced-regime" prisoners: up to the minimum wage;

For "strict-regime" prisoners: up to the minimum wage;

(d) Increases in the number of visits allowed per year, as follows:

For "general-regime" prisoners: short visits, from 3 to 48; long visits, from 2 to 4;

For "reinforced-regime" prisoners: short visits, from 2 to 24; long visits, from 2 to 3;

For "strict-regime" prisoners: short visits, from 2 to 12; long visits, from 1 to 2;

(e) Increases in the number of parcels (hand deliveries and book post) allowed per year, as follows:

For "general-regime" prisoners: from 3 to 48;

For "reinforced-regime" prisoners: from 2 to 24;

For "strict-regime" prisoners: short visits, from 1 to 12.

294. Subject to good conduct and a conscientious attitude to work, prisoners may be granted improved conditions of detention after serving respectively not less than one third (general regime), one half (reinforced regime) or two thirds (strict regime) of their sentence.

295. In that event, they may, depending on the regime, spend still greater amounts on food and receive still more visits and parcels.

296. Inmates of corrective-labour colonies for minors and those of general-regime colonies are allowed a period of annual leave.

297. In addition, the law provides that after prisoners have served one third, one half or two thirds of their sentence, a court may, depending on the gravity of their crime and the length of the sentence, grant them a change of regime, as follows:

Early release on parole;

Release on parole, subject to an obligation to work outside the corrective-labour establishment; or

Transfer to a settlement-type colony, with the right to reside in separate rented accommodation with their families and to travel freely within the administrative area where the settlement is situated.

298. The total number of persons serving sentences in corrective-labour colonies (whether general-, reinforced- or strict-regime) or settlement-type colonies is approximately 16,500, or 235 per 100,000 inhabitants of Azerbaijan.

299. In terms of numbers of convicts per 100,000 inhabitants, Azerbaijan is among the lowest-ranking countries in the Commonwealth of Independent States.

300. The President has decreed pardons and the Milli Mejlis has voted amnesties every year since 1995.

301. The numbers of persons pardoned by presidential Decree were: in 1995, 1,207; in 1996, 328; in 1997, 165; in the first half of 1998, 81. A further 66 persons were pardoned by the presidential Decree on the Pardoning of Persons Sentenced to Deprivation of Liberty of 10 July 1999.

302. Convicts benefiting from amnesties voted by the Milli Mejlis numbered 8,723 in 1996, 3,107 in 1997 and 7,715 in 1998.

303. That testifies to the State's humane attitude to persons who have committed socially dangerous acts.

304. Notwithstanding the country's difficult economic situation, the Government has put into effect almost all the changes and additions to the Corrective-Labour Code made by the Act of 7 February 1997 that were aimed at improving prisoners' living conditions and broadening their rights.

305. Moreover, all these changes have been implemented with direct input from international, inter-governmental and non-governmental organizations, which regularly visit the country's corrective-labour establishments.

306. Today, all the requisite conditions have been created for inmates of corrective-labour establishments to hold religious ceremonies, have telephone conversations with their relatives or friends and receive appropriate secondary, specialized secondary or higher education.

307. In addition, inmates are granted short-term leave to visit relatives for personal or family reasons.

308. A draft of a State programme for the reform of the penitentiary system has been prepared and is now at the discussion stage. The document provides for corrective-labour establishments in Azerbaijan to be brought into line with the penitentiary-system standards of the Council of Europe and for comprehensive cooperation with European countries in this regard.

The State organs for the supervision of penitentiary establishments

309. Pursuant to the Procurator's Office Act, the Procurator-General of the Republic and his Office's Execution of Penalties Supervisory Division regularly monitor compliance with the law in places of deprivation of liberty and in the execution of sentences unconnected with deprivation of liberty or other coercive measures.

310. In monitoring compliance with the law on behalf of the State, procurators are obliged to take steps to identify and to eliminate in good time any violations of the law, by whomever committed, restore rights that have been violated and bring the guilty parties to justice in accordance with the law (Corrective-Labour Code, art. 11).

311. The Supervisory Division holds monthly "surgeries" on their personal problems for inmates of corrective-labour establishments under its control, receives written submissions and complaints, and checks whether inmates have been lawfully assigned to solitary confinement as a punishment for breaches of the prison rules.

Statistics of complaints concerning the activity of penitentiary establishments

312. With regard to the activity of penitentiary establishments, in 1998 the Execution of Penalties Supervisory Division of the Procurator's Office examined and satisfied 17 (0.8 per cent) of 193 petitions from victims, inmates and their relatives concerning unlawful release, transfer to corrective-labour establishments of the Ministry of Justice for the outstanding portion of a sentence, unfounded conviction, etc.

313. For example, following examination of an allegation of unlawful release by the authorities of Corrective-Labour Establishment No. 14 of the inmate, G. Kerimov, criminal proceedings were opened on 19 November 1998 under article 172 (Forgery in the execution of official duties) of the Criminal Code and the preliminary investigation was entrusted to the procurator's office of the Karadag district of Baku.

Separate confinement of accused and convicted persons and of minors

314. Depending on their age and sex and the gravity of their offence, as well as their previous record, persons sentenced to deprivation of liberty serve their sentences in corrective-labour

establishments subject to differing regimes. Corrective-labour establishments for adult males are, accordingly, divided into general-, reinforced- and strict-regime establishments.

315. Certain categories of convicts may be sentenced by a court to terms in prison. Some persons may be sentenced to terms in settlement-type colonies for persons guilty of offences by negligence and others to terms in settlement-type colonies for persons guilty of premeditated offences.

316. Under-age males sentenced to deprivation of liberty serve their terms in general- or reinforced-regime corrective-labour colonies for minors.

317. Under-age females, as well as women sentenced to deprivation of liberty, serve their terms in general-regime colonies or settlement-type colonies for persons guilty of premeditated offences or in settlement-type colonies for persons guilty of offences by negligence.

Placing of prisoners in cells according to social, cultural and other criteria

318. Azerbaijani law makes no provision for remand prisoners or persons sentenced to deprivation of liberty to be divided between cells according to social, cultural or other criteria (religion, race, ethnic origin, level of education).

Rehabilitation of prisoners, especially minors

319. Efforts to rehabilitate convicts, including minors, begin from the first day of their presence in corrective-labour establishments.

320. New inmates of such establishments are housed separately from the others for up to two weeks. They are told the work rules approved by the head of the establishment, engage in socially useful labour and follow general-education, vocational and political-education classes.

321. Convicts' rehabilitation is also served by the incentives and penalties applied to them.

ARTICLE 11

322. Pursuant to both the letter and the spirit of Azerbaijani law, no one may be deprived of liberty solely because of inability to fulfil a contractual obligation.

ARTICLE 12

323. Article 28 of the Constitution states that everyone lawfully within the territory of Azerbaijan shall have the right to liberty of movement and freedom to choose their residence, and shall be free to leave the country.

Requirements and conditions for the registration of citizens, aliens and stateless persons

324. Azerbaijani citizens, aliens and stateless persons are registered in accordance with the Registration of Places of Residence and Sojourn Act of 4 April 1996.

325. The purposes of registering people's places of residence and sojourn are to keep a record of persons residing in the country and establish the necessary conditions for the fulfilment of their obligations towards other persons, the State and society, and the realization of their rights and freedoms as human beings and citizens.

326. The registration of an address pursuant to the Act is not concessive and only has legal implications in circumstances specified by Azerbaijani law.

Legal restrictions on changes of address

327. Regarding changes of address, restrictions may be placed on residence in border areas, secret military installations, secret administrative facilities, environmental disaster zones, areas where special conditions and arrangements apply as a result of infection or contamination, and areas in which a state of emergency or martial law has been declared.

Conditions and requirements concerning the movement of persons inside Azerbaijan, and entry into and departure from the country

328. Citizens who change their place of residence must register with the relevant authorities no later than 10 days after arriving at their new address.

329. Persons may be removed from the register in the following circumstances:

(1) On changing their place of residence;

(2) On electing to reside abroad;

(3) When deprived of liberty pursuant to a enforceable court judgement;

(4) Upon death, or declaration of death pursuant to a court decision.

Required papers inside and outside Azerbaijan

330. The following identity papers are valid inside Azerbaijan:

(1) Passport issued by the former USSR;

(2) Identity card (when not available, an appropriate certificate).

331. Outside Azerbaijan, only ordinary foreign-travel, diplomatic and official passports are valid.

State authorities overseeing the above matters

332. The State authorities overseeing the above matters are the Ministry of Internal Affairs and the local internal affairs authorities at citizens' places of residence.

Statistics on applications for foreign-travel documents and refusal of applications

333. In 1998 the Passport and Registration Authority of the Ministry of Internal Affairs issued 53,958 ordinary foreign-travel passports.

Requirements for aliens entering Azerbaijan

334. Under article 12 of the Entry, Exit and Passports Act of 14 June 1994, aliens and stateless persons may legally enter and leave Azerbaijan through specially designated checkpoints upon presentation of a personal passport and a properly issued visa.

335. To obtain a visa, an alien must submit an application to an embassy or consulate of the Azerbaijan Republic, or directly to the Ministry of Foreign Affairs, indicating the purpose and length of his visit to Azerbaijan and attaching the required documents and a receipt for payment of the visa fee.

336. The list of documents to be attached to visa applications from aliens is determined by the Ministry of Foreign Affairs. The visa fee is set by the Cabinet of Ministers.

337. Visa applications from aliens must be considered by the Ministry of Foreign Affairs, embassies or consulates within one month of the receipt of the application. If the visit is in connection with urgent medical treatment, serious illness or death of a relative living in Azerbaijan, the application must be considered within 48 hours of the presentation of documentation confirming the circumstances.

338. If a visa application is rejected, the applicant must be given written notification of the reasons for the rejection. Any further application will be considered once the factors occasioning the rejection have been removed.

339. The following categories of visa exist in Azerbaijan:

(a) Entry visa (allows aliens general access to Azerbaijani territory. Single entry-exit visas are valid for between three days and three months, and multiple entry-exit visas are valid for up to a year. The visa expires if it is not used within its period of validity);

(b) Return visa (may be issued upon application to holders of foreign passports departing Azerbaijan for a subsequent return visit of up to one month. This category of visa expires if it is not used within six months of the date of departure from Azerbaijan);

(c) Transit visa (single- or multiple-entry transit visas are issued to aliens transiting Azerbaijani territory en route to other countries. Unless the transit visa contains an annotation or stamp referring to uninterrupted transit, the holder is entitled to remain in Azerbaijan for up to five days);

(d) Exit visa (issued to aliens officially authorized to reside in Azerbaijan. No fee is charged for exit visas).

340. Aliens are prohibited from entering Azerbaijan only in the following circumstances:

(1) If the interests of national security or public order so require;

(2) If prohibition is necessary to protect the rights and legitimate interests of Azerbaijani citizens or other persons;

(3) If during a previous stay in the country the person broke Azerbaijani law;

(4) If the person submitted false particulars about himself/herself in applying to enter Azerbaijan;

(5) If the entry into Azerbaijan of a person suffering from a mental or infectious illness would endanger public health (this does not apply to persons who present no such danger and who are visiting Azerbaijan for treatment at their own expense or with financial support from lawful carers or representatives).

341. Article 12 also specifies circumstances in which time restrictions may be imposed on the departure of aliens from Azerbaijan:

(1) When their departure would harm the national security interest - until the grounds for this determination are removed;

(2) When they are suspected or accused of having committed an offence - until legal proceedings have been completed;

(3) When they have been convicted of an offence - until early release or until the whole term of the sentence has been served;

(4) When civil proceedings have been initiated against them in the courts - until the entry into force of a civil judgement in accordance with the procedure established by Azerbaijani law.

Legal restrictions on entry into Azerbaijan by Azerbaijani citizens

342. Azerbaijani citizens have the right to return unhindered to Azerbaijan at any time.

343. Under article 1 of the Entry, Exit and Passports Act of 14 June 1994, every Azerbaijani citizen has the right freely to enter and depart the country through specially designated checkpoints in accordance with the procedure established by law.

344. No citizen may be deprived of his right to leave the country, except in the following circumstances:

(1) If a citizen is pledged to keep State or military secrets - until this commitment lapses in accordance with the procedure established by Azerbaijani law;

(2) If a citizen is the subject of criminal proceedings or has been convicted - until the conclusion of the proceedings, until the sentence has been served, or until early release respectively;

(3) If a citizen has been legitimately called up for compulsory active military service - until the completion of active military service or until exemption therefrom in accordance with the law.

345. Article 5 of the Legal Status of Aliens and Stateless Persons Act stipulates that aliens and stateless persons may emigrate to Azerbaijan with a view to permanent residence or employment for a specified period, and they may also visit the country temporarily under the procedure established by Azerbaijani law.

ARTICLE 13

Normative instruments and practice with respect to expulsion of aliens

346. The standard instruments dealing with expulsion of aliens are the Legal Status of Aliens and Stateless Persons Act of 13 March 1996, the Code of Administrative Offences adopted on 1 January 1998, and the Immigration Act of 22 November 1998.

347. Article 27 of the Legal Status of Aliens and Stateless Persons Act states: "Where necessary to safeguard national security, public order, and the health, rights and interests of the population, and in the event of a gross violation of Azerbaijani law with respect to the legal status of aliens and stateless persons, such persons may be deported from Azerbaijan within a period of one to seven days pursuant to a decision by a competent authority."

348. Aliens and stateless persons must leave Azerbaijani territory within the period specified in the deportation order. An alien or stateless person who refuses to leave Azerbaijani territory may be detained upon with the authorization of the Procurator-General of Azerbaijan or the Procurator of the Nakhichevan Autonomous Republic and be forcibly deported.

349. A decision to deport aliens or stateless persons from Azerbaijan may be challenged in the courts (article 27 of the Act).

350. Aliens and stateless persons enjoy the same procedural rights in the courts as Azerbaijani citizens (article 4 of the Act).

Statistics on the extradition of aliens

351. There was only one recorded case of deportation of an alien in 1998.

ARTICLE 14

352. Article 125 of the Azerbaijani Constitution states that the Azerbaijani judicial system comprises the Constitutional Court, the Supreme Court, the Economic Court and the ordinary and specialized courts.

353. Under article 19 of the Courts and Judges Act, the following courts in the Azerbaijani judicial system administer justice:

- District (city) courts;
- The Serious Offences Court;
- Military courts;
- The Military Serious Offences Courts;
- The regional economic courts;
- The Economic Court of the Azerbaijan Republic, for Disputes Arising from International Treaties;
- The Supreme Court of the Nakhichevan Autonomous Republic;
- The Court of Appeal of the Azerbaijan Republic;
- The Economic Court of the Azerbaijan Republic;
- The Supreme Court of the Azerbaijan Republic.

354. Specialized courts may be established in the Azerbaijani judicial system as provided for by law.

355. Under the Azerbaijani Constitution and the Courts and Judges Act, provision is made for specialized courts such as the Serious Offences Court; military courts; the Military Serious Offences Court; regional economic courts; and the Economic Court for Disputes Arising from International Treaties.

356. Article 25 of the Courts and Judges Act states that the Serious Offences Court, in its capacity as a court of first instance, shall hear cases that fall legally within its jurisdiction, study judicial statistics, scrutinize and sum up court practice, and exercise the other powers assigned to it under Azerbaijani law.

357. Article 26 further states that the Serious Offences Court shall sit in the capital, Baku, and shall have jurisdiction over the entire territory of Azerbaijan.

358. Under article 31 of the Act, a military court, in its capacity as a court of first instance, shall hear criminal cases that fall within its jurisdiction.

359. Article 32 of the Courts and Judges Act states that military courts shall be established in districts where military garrisons of the Azerbaijani armed forces are stationed, taking into account the number of military units there. The jurisdiction of a military court extends to the military units of the garrison where the court is established. The establishment, location and scope of military courts are prescribed by Azerbaijani law.

360. Pursuant to article 36 of the Act, the Military Serious Offences Court, in its capacity as a court of first instance, hears cases that fall legally within its jurisdiction. Article 37 of the Act stipulates that this court shall have jurisdiction over all military units of the garrisons of the Azerbaijani armed forces.

361. Article 42 of the Courts and Judges Act states that the regional economic courts, in their capacity as courts of first instance, shall hear cases relating to economic disputes which fall legally within their jurisdiction.

362. Article 43 states that regional economic courts shall be established in administrative districts of the Azerbaijan Republic or in free zones.

363. The establishment, location and scope of regional economic courts are prescribed by Azerbaijani law.

364. Article 47 stipulates that the Economic Court for Disputes Arising from International Treaties, in its capacity as a court of first instance, shall hear cases relating to economic disputes that fall legally within its jurisdiction. Article 48 states that the Economic Court for Disputes Arising from International Treaties shall have jurisdiction over the entire territory of Azerbaijan.

365. Pursuant to article 109, paragraph 9, of the Constitution and article 94 of the Courts and Judges Act, judges are appointed by the President of Azerbaijan.

366. Pursuant to article 109, paragraph 9, and article 95, paragraph 10, of the Constitution, judges of the Supreme and Economic Courts are appointed by the Milli Mejlis on the recommendation of the President of Azerbaijan. The Chairman of the Supreme Mejlis on the Nakhichevan Autonomous Republic is involved in choosing judicial candidates in this autonomous republic.

367. The appointment of chairmen, vice-chairmen and the chairmen of judicial panels is governed by the provisions of article 109, paragraph 32, of the Azerbaijani Constitution.

368. Article 109, paragraph 32, of the Constitution states that the President of Azerbaijan, in his executive capacity, shall settle other matters which are not assigned by the Constitution to the jurisdiction of the Milli Mejlis or the courts.

369. Under article 3 of the Courts and Judges Act, the role of the Azerbaijani courts is confined to administering justice. In fulfilling this role, the courts are obliged to ensure

protection against breaches of the law and against encroachments on citizens' rights and freedoms and the rights and legitimate interests of enterprises, institutions, organizations and other corporations regardless of their form of ownership, affiliation with political parties or public associations, and to perform the other duties specified by the Azerbaijani Constitution and the Courts and Judges Act. The imposition of other duties on the courts is not permitted.

Guarantees of the independence of the judiciary

370. Azerbaijani law provides an array of guarantees of the independence of the judiciary and establishes well-defined conditions for significantly raising the status of judicial authority and its representatives, the judges, together with the prerequisites for the judiciary to operate efficiently.

371. In accordance with the principle of the separation of powers (article 7 of the Constitution), the judiciary is an independent branch of State power.

372. Azerbaijani courts have uniform legal status, i.e. they enjoy equal rights and guarantees and are subject to the same obligations as each other.

373. Taken as a whole, the various elements of judges' status are designed to ensure their independence.

374. The independence of the courts is guaranteed and enshrined in the Azerbaijani Constitution.

375. Article 127 of the Constitution stipulates that judges are independent and subordinate only to the Constitution and laws of the Azerbaijan Republic.

376. The Courts and Judges Act is "intended to ensure the administration of justice in the Azerbaijan Republic and establish the independent judiciary provided for in the Azerbaijani Constitution".

377. Article 100 of the Courts and Judges Act states: "Judges are independent and subordinate only to the Constitution and laws of the Azerbaijan Republic".

378. Article 6 of the Constitutional Court Act stipulates: "the Constitutional Court is an autonomous State body which is organizationally, financially and in every other way independent of legislative, executive and other judicial bodies". "In carrying out their functions, judges of the Constitutional Court are independent and subordinate only to the Azerbaijani Constitution" (ibid., article 11).

379. The independence of judges ensures:

(1) Absence of political bias

380. Under article 126 of the Constitution, judges are prohibited from engaging in political activity or joining political parties.

381. Article 105 of the Courts and Judges Act provides: "Judicial appointees must resign from parties or other political organizations before taking their oath of office. Judicial appointees who do not so resign shall not be permitted to perform the duties of a judge".

382. Article 9 of the Constitutional Court Act states: "Judges of the Constitutional Court may not engage in political activity or belong to political parties".

(2) Irremovability

383. Article 127 of the Azerbaijani Constitution states that "Judges are irremovable for the duration of their term of office".

384. Article 97 of the Courts and Judges Act states that "Judges are irremovable for the entire duration of their term of office. They may not be transferred to another post without their consent. Judges' powers may not be removed except on the grounds and in accordance with the procedures established by this Act".

385. Article 127 of the Azerbaijani Constitution stipulates that judges of the Constitutional Court are irremovable for the duration of their term of office. "Judges are independent, irremovable and inviolable" (article 98, Courts and Judges Act).

(3) Inviolability for the duration of term of office

386. Article 128 of the Constitution, article 101 of the Courts and Judges Act and article 12 of the Constitutional Court Act all state that judges are inviolable.

387. Judicial inviolability means that a judge may not be subject to criminal or administrative prosecution or to arrest or detention, or searches of his property or his person, nor may he be compelled to appear before the investigating authorities or the courts.

388. A judge whose identity is not established at the time of arrest must be immediately released once his identity has been made known, and the Procurator-General must be immediately notified of this fact.

389. The Procurator-General must verify the legality of the arrest of a judge suspected of having committed a criminal or administrative offence.

390. When their actions contain indicia of a crime, judges may be removed from office by the procedure outlined in article 128, parts IV and V, of the Constitution.

391. Judges who have been removed from office may be open to criminal prosecution and held in detention pursuant to a decision by the Procurator-General only with the consent of the disciplinary board of the Supreme Court.

392. Article 12 of the Constitutional Court Act stipulates that a judge of the Constitutional Court who has been removed from office may be open to criminal prosecution and held in detention pursuant to a decision of the Procurator-General.

393. When a judge is the subject of criminal proceedings and has been detained, the Procurator-General shall take personal responsibility for all decisions in the matter. The powers of a judge who has been removed from office cease before the entry into force of a criminal conviction. Upon acquittal, or in the absence of facts and circumstances constituting a breach of the law, or of evidence that an offence has been committed, the powers of a judge who has been removed from office are restored.

394. The inviolability of judges also extends to their residence, workplace, transport, means of communication, correspondence, and personal property and documents.

395. Judges shall not incur personal material liability for damage caused as a result of judicial error to a party to proceedings or to any person involved in the consideration of a case.

396. Damage of such nature is to be made good by the State in the circumstances and in accordance with the procedure prescribed by law.

397. Article 12 of the Constitutional Court Act states that: "Judges of the Constitutional Court may neither be prosecuted nor be compelled to provide explanations or statements in connection with their acts, votes or expressions of opinion in the Court".

398. The regulations on inviolability, which establish one of the core elements of the status of judges, are thus intended to safeguard the foundations of the constitutional system, namely the separation of powers and the autonomy and independence of the judiciary from external and arbitrary action or influence, and to prevent judges from being harassed on account of their work.

(4) Restrictions on appointments to other positions

399. The Constitution and laws of Azerbaijan contain an array of provisions designed to safeguard judicial independence. Under article 93 of the Courts and Judges Act, persons holding dual citizenship may not be appointed judges.

400. Article 126 of the Constitution and article 9 of the Constitutional Court Act stipulate that judges must be Azerbaijani citizens of at least 30 years of age; they must be eligible to vote and stand for election and they must possess a higher educational qualification in law and at least five years' work experience in a specialized legal field.

401. Article 126, part II, of the Constitution, articles 93 and 104 of the Courts and Judges Act and article 9 of the Constitutional Court Act all contain provisions on the incompatibility of judicial office with other activities.

402. Judges may not hold another elective or appointed post, engage in entrepreneurial, commercial or other paid activity, or receive any form of remuneration except their salary and income from scientific, teaching or creative work.

(5) Independence of the judiciary, and the legally established procedure for the administration of justice

403. The hearing and settling of court cases are governed by procedures laid down in Azerbaijani law. These will be comprehensively defined in adjective law (the new criminal, civil and administrative codes).

404. A number of important principles concerning judicial procedure are reflected in the Azerbaijani Constitution, especially article 60 (Judicial safeguarding of rights and freedoms), article 61 (Right to legal assistance), article 62 (Inadmissibility of changing legal jurisdiction), article 63 (Presumption of innocence), and article 71, paragraph 7 (Protection of human and citizens' rights and freedoms).

405. The following constitutional principles concerning judicial procedure are statutorily defined:

(a) The subordination of the courts to the Constitution and laws of Azerbaijan (article 127 of the Constitution)

406. Article 4 of the Courts and Judges Act states: "In hearing cases, the courts shall be guided by the Constitution, the laws and other statutory instruments of the Azerbaijan Republic, and also by international treaties to which Azerbaijan is a party".

407. Article 2 of the Constitutional Court Act states that: "The legal basis for the activity of the Constitutional Court shall be the Constitution of the Azerbaijan Republic and this Act".

408. Article 5 of the Constitutional Court Act states: "The activity of the Constitutional Court shall be based on the principles of the primacy of the Azerbaijani Constitution, impartiality and independence".

(b) The principle of the adversarial nature of legal proceedings

409. Article 127 of the Constitution, article 13 of the Courts and Judges Act, and article 23 of the Constitutional Court Act all stipulate that legal proceedings shall be based on the adversarial system.

410. Article 23 of the Constitutional Court Act states: "The Constitutional Court shall not be bound by the arguments and evidence adduced by the parties to a dispute and must proceed to investigate and examine the issues comprehensively and dispassionately".

(c) The principle of openness of court proceedings

411. Under article 127 of the Constitution, article 12 of the Courts and Judges Act, and articles 22 and 5 of the Constitutional Court Act, all court proceedings shall be held in open court. Cases shall be heard in camera only in circumstances prescribed by law. All court judgements shall be made public.

(d) The principle of equality before the law and the courts

412. Article 127 of the Constitution, article 7 of the Courts and Judges Act, and article 20 of the Constitutional Court Act state that justice in Azerbaijan shall be administered on the basis of everyone's equality before the law and the courts, regardless of race, nationality, occupation, opinions, or membership of political parties, trade unions or other social organizations.

(e) The principle of the right of defence at any stage of proceedings

413. Articles 60 and 127 of the Constitution, article 10 of the Courts and Judges Act, and article 4 of the Constitutional Court Act contain provisions on the right to protection by the courts of the rights and freedoms of Azerbaijani citizens, aliens residing in Azerbaijan and stateless persons, and of the legitimate interests of corporations from all encroachments or breaches of the law.

414. No one may be deprived of the right of protection by the courts. Suspects, accused persons and defendants are guaranteed the right of defence as provided for under Azerbaijani law (a more detailed description of their rights is contained in the initial report of Azerbaijan).

(f) The presumption of innocence

415. Articles 63 and 127 of the Constitution and article 11 of the Courts and Judges Act state that justice shall be administered on the principle of the presumption of innocence.

(g) Prohibition of changing legal jurisdiction

416. Article 62 of the Constitution and article 15 of the Courts and Judges Act prohibit changes to legal jurisdiction as that is defined by Azerbaijani law and the removal of a case from a lawfully appointed judge without justification.

(h) The principle of the collegial nature of judicial proceedings and the direct administration of justice

417. Article 4 of the Courts and Judges Act and articles 5, 25 and 26 of the Constitutional Court Act state that the work of the courts shall be based on the principles of the primacy of the Constitution, and of impartiality, independence and the collegial system.

(i) Prohibition of interference in judicial proceedings

418. Articles 16 and 18 of the Courts and Judges Act state that the Azerbaijani courts shall administer justice on the basis of the authority of the judiciary, the possibility of complying with all procedural requirements, and the preclusion of influence on judges' freedom to express their opinions. Offences against justice shall incur liability under the law.

(j) The principle of impartiality and fairness

419. Article 127 of the Constitution, articles 8 and 16 of the Courts and Judges Act, article 20 of the Constitutional Court Act, and articles 27 and 28 of the Code of Criminal Procedure state that judges shall hear cases impartially and fairly, respecting the legal equality of the parties, and on the basis of the facts and the law. A judge who has heard a case in a court of first instance, a court of appeal or a court of cassation is debarred from taking part in further judicial proceedings on the same matter. When suspicions arise as to a judge's impartiality, he must refrain from participation in the case or be removed from it.

420. The rules of procedure provided for by the Constitution and laws of Azerbaijan and the statutes of the courts safeguard legal procedures and strengthen the independence of the judiciary and enable it to function smoothly.

(6) Prohibition of restrictions on or interference in legal proceedings

421. Article 127 of the Constitution prohibits the imposition of direct or indirect restrictions on legal proceedings by any party and for any reason, and also bans unlawful influence, threats or interference.

422. Under article 9 of the Courts and Judges Act, the imposition of direct or indirect restrictions on legal proceedings by any party and for any reason, unlawful influence, pressure, threats or interference, and contempt of court are prohibited and render the perpetrator liable under Azerbaijani law.

423. Article 21 of the Constitutional Court Act prohibits the imposition of direct or indirect restrictions on legal proceedings in the Constitutional Court, and also unlawful influence, intimidation or interference by any party and for any reason. Violators incur liability as provided for by law.

424. Under article 175-1 of the Criminal Code, it is an offence to interfere in the settlement of court cases or to exert any kind of pressure on judges or people's assessors with a view to impeding the full, thorough and impartial hearing of a particular case or to secure an unlawful judicial ruling.

425. Under article 175-2 of the Criminal Code, it is an offence to threaten judges or people's assessors with murder, violence or destruction of their property, or to make similar threats to such judicial officers' immediate families in connection with the officers' administration of justice.

426. Under article 175-3 of the Criminal Code, it is an offence to insult judges or people's assessors in connection with their activity in administering justice.

(7) Protection of judges' personal safety

427. The Government is putting in place an array of measures to protect the lives, health,, property and immediate families of judges carrying out potentially dangerous functions and is also establishing requisite conditions for the administration of justice.

428. Article 98 of the Courts and Judges Act stipulates that judges are entitled to security of heir person and property.

429. Under article 102 of the same Act, judges are entitled to bear and keep arms to protect their safety as provided for by Azerbaijani law. If necessary, responsibility for their safety is assumed by the State.

430. Articles 5 to 10 and 12 of the State Protection of Judges and Law-Enforcement and Inspection Officials Act stipulate that judges may be offered various kinds of State protection, for example bodyguards; police protection of life and property; issuance of weapons and personal protective devices; warnings of danger; temporary shelter in safe accommodation; non-disclosure of information about themselves and other protected persons, and transfer to other work.

(8) Appropriate material and social guarantees for the judiciary

431. Judges' salaries and social benefits are funded from the national budget, and consequently it is possible to ensure the full and independent administration of justice in accordance with the Constitution and laws of Azerbaijan.

432. Article 91 of the Constitutional Court Act stipulates that the work of the Constitutional Court shall be funded from the national budget. The Court's annual budget may not be reduced in relation to the previous year's budget.

433. Articles 18 to 20 of the State Protection of Judges and Law-Enforcement and Inspection Officials Act provide for social protection should judges die or suffer impairment of their health or damage or destruction of their property as a result of their work.

(9) Prosecution, forfeiture of powers and removal from office

434. The procedure for prosecuting judges, divesting them of their powers and removing them from office is governed by article 128 of the Constitution and articles 111 to 114 of the Courts and Judges Act, which respectively define the grounds on which disciplinary proceedings may be brought against a judge; the procedure to be followed in such cases; the grounds on which a judge's powers may be terminated; and the procedure for early termination of a judge's powers. Article 19 of the Constitutional Court Act (Early termination of the powers of judges of the Constitutional Court) is also relevant in this regard.

(10) Binding nature of judicial decisions and interdiction on review of court decisions

435. Court rulings are binding (articles 29 and 130 of the Constitution and article 5 of the Courts and Judges Act) and must therefore be strictly enforced throughout Azerbaijani territory by representative and executive authorities, local government authorities, enterprises, institutions, organizations, officials, citizens and associations of citizens. Failure to implement enforceable judicial decisions incurs liability under Azerbaijani law.

436. Article 83 of the Constitutional Court Act states that interpretation of Constitutional Court rulings by official bodies is not permitted.

437. Article 100 of the Courts and Judges Act stipulates that judicial decisions must be based on the independent opinions of judges and the outcome of judicial proceedings.

438. An examination of the conceptual framework of judicial reform in Azerbaijan shows that vigorous steps have been taken in recent years to ensure that the judiciary is an autonomous, independent and strong branch of State power that exercises its authority in defence of the constitutional system and the integrated economic and legal area of the Azerbaijan Republic.

ARTICLE 15

439. Article 71 of the Constitution states that no one may be liable for an act which at the time of its commission did not constitute an offence.

440. If after the commission of an offence a new law either cancels or mitigates the liability for that offence, the more recent law shall be applied.

441. Article 6 of the Criminal Code states that, when a law criminalizing and penalizing an act augments the penalty or otherwise aggravates the position of the offender, it shall not have retroactive force.

ARTICLE 16

442. Under article 9 of the Civil Code, the capacity to have civil rights and duties (civil legal capacity) is recognized equally to all Azerbaijani citizens.

443. The legal capacity of a citizen of the Azerbaijan Republic begins at birth and ends at death.

444. Article 11 of the Civil Code states that a citizen's capacity to acquire civil-law rights and obligations by personal acts (his civil competence) becomes full at the age of majority, i.e. 18 years.

445. Under article 567 of the Civil Code, aliens have, subject to such exemptions as may be established by law, the same civil legal capacity in Azerbaijan as citizens of the country.

ARTICLE 17

446. Under article 32 of the Constitution, everyone has the right to inviolability of the person. Everyone is entitled to keep their personal and family life private. Except as otherwise provided by law, interference in private life is prohibited.

447. The collection, storage, use and dissemination of information about a person's private life without their consent is prohibited. The State guarantees everyone the right to privacy of correspondence and telephonic, postal and telegraphic communication and of information transmitted by other means of communication.

448. Article 33 of the Constitution states that everyone is entitled to inviolability of their home. Except as provided by law or a judicial decision, no one may enter a person's home without the inhabitant's consent.

449. Article 46 of the Constitution states that everyone has the right to defend his honour and dignity. Personal dignity is protected by the State. No circumstance may be invoked to justify degrading an individual.

450. Article 2 of the Freedom of Information Act stipulates that exercise of the freedom of information must not result in infringement of the rights or interests of natural or legal persons. Limitation of the freedom of information is permitted only in the cases provided for in the Azerbaijani Constitution.

451. The principle of the privacy of everyone's personal and family life is one of the principles underlying exercise of the freedom of information.

452. Article 7 of the Civil Code states that citizens have the right to take legal action for refutation of information that damages their honour or dignity if the person who disseminated the information cannot demonstrate that it is true. This article also makes it an offence to humiliate or degrade someone.

453. Article 127 of the Constitution provides that cases may only be heard in camera if the court considers it necessary to preserve the privacy of personal or family life.

454. Article 17 of the Code of Criminal Procedure states that cases may also be heard in camera if the court makes a reasoned decision to prevent the disclosure of intimate details about the parties to a case.

455. Article 4 of the Mass Media Act prohibits and punishes the use of the mass media to encroach on citizens' private lives or attack their honour and dignity.

456. Between 1997 and 1998 there were no recorded breaches of the rule of inviolability of citizens' homes.

ARTICLE 18

457. The right to freedom of thought, conscience and religion is enshrined in the Constitution and other statutory instruments of the Azerbaijan Republic.

458. Under article 18 of the Constitution, religion and the State are separate. The Constitution also guarantees all religions equality before the law. It is prohibited to disseminate propaganda for religions that degrade the individual and contravene humanitarian principles. The State education system is secular.

459. Pursuant to article 48 of the Constitution and article 1 of the Freedom of Religion Act of 20 August 1992, everyone has the right to freedom of conscience and the right freely to determine their attitude to religion, to worship independently or with others or to practise no religion at all, and to express and disseminate their religious opinions. Religious rites may be freely performed so long as they do not disturb public order or offend public morals.

460. The Freedom of Religion Act prohibits privileging or restricting a particular religion. The same applies to religious education.

461. Freedom of worship may only be restricted for reasons of State or public security and where necessary to protect rights and freedoms arising from Azerbaijan's international obligations.

462. Parents or persons acting as parents may mutually consent to raise their children in accordance with their own religious views or attitude to religion.

463. It is a criminal offence to impede the performance of religious rites.

464. Over 200 Muslim mosques, upwards of 50 Christian Churches and communities, and 5 synagogues are currently registered in Azerbaijan. Religious communities, institutions and centres of the Muslims of the Caucasus, the Russian Orthodox churches, the Evangelical Christians or Baptists, the Adventist communities, an international Protestant Christian association (The Saving Grace), and the Baku branches of the international Krishna and Baha'i associations are also active in Azerbaijan. Hundreds of unofficial religious groupings are also active, of which about 60 are communities belonging to the Christian religion.

465. The Dean of the Russian Orthodox churches represents five Russian Orthodox churches - three in Baku, one in Gyanja district and the other in Khachmas district. There are four working Georgian Orthodox churches in Kakhi district and two Christian churches in Gaibaly district, and over 30 traditional Protestant communities in various parts of Azerbaijan (Molokane, Baptists, Pentecostalists, Seventh Day Adventists, Lutherans, New Apostle and others). A number of these communities were registered in the years immediately following the re-establishment of Azerbaijan's independence. Some of the less traditional Protestant Christian communities founded by foreign religious missionaries, as well as a number of other religious groupings, were officially registered somewhat later. These include the "Saving Grace", the Church of the New Apostle, the German Lutheran Church, the Baku branch of the International Krishna Society, the

Baha'i community and many others. It is worth noting that a number of Protestant Christian and Catholic Christian communities from the United States of America and Europe have a presence in Azerbaijan.

466. Of the five Jewish working synagogues in Azerbaijan, three are in Baku, one is in the village of Krasnaya Sloboda in Kuba district, and the other is in the administrative centre of Okyu district. The Mountain Jews account for the majority of the Jewish diaspora in Azerbaijan, and theirs is one of the most active synagogues in the country, with one of the largest congregations. After this community come, in descending order, the Jews of Kuba district, the European Jews, the Georgian Jews and the Jews of the Okyu district.

467. A number of Islamic, Christian and Jewish establishments for religious education are operating in Azerbaijan, namely the Islamic University of Baku, several Islamic schools, Sunday schools attached to Orthodox Christian churches, Pentecostalist Bible courses, and the Bible School of the Saving Grace international Protestant Christian association.

468. Classes in Hebrew, Judaism and Jewish culture and history have also been started at General Secondary School No. 46 in Baku.

469. The various faiths present in Azerbaijan maintain close links with religious centres in various countries and participate actively in events with a religious focus organized by these centres. Thus the Council of Muslims of Transcaucasia has established friendly relations with the Organization of the Islamic Conference and with Islamic and other religious centres abroad.

470. The Dean of the Russian Orthodox Church keeps in contact and collaborates with the Christian centres functioning in other CIS countries. The Jewish synagogues have wide-ranging contacts with Jewish communities in various countries.

471. The various faiths and non-traditional religious groupings in Azerbaijan take part in charitable work. They support a number of societies providing humanitarian assistance, and themselves visit boarding schools, homes for the disabled, hospitals and prisons, and offer material and moral assistance.

472. The national and religious festivals of all faiths are widely celebrated in Azerbaijan and the country's President annually makes an appropriate public statement in connection with each of them. The Presidential Fund regularly provides financial assistance to Jewish synagogues and Orthodox churches.

473. Evidence of the climate of mutual respect between the various faiths in Azerbaijan is to be found in their active and equal participation in public life, including the adoption of joint statements on issues of national significance.

ARTICLE 19

474. Article 47 of the Constitution guarantees everyone freedom of thought and speech. No one may be compelled to make public his opinions or beliefs or to repudiate them. The same article of the Basic Law prohibits campaigning and propaganda intended to excite racial, religious and social strife or hostility.

475. Article 50 of the Constitution enshrines the right of every person freely to seek, receive, impart, compile and disseminate information by legal means. It also guarantees the freedom of the mass media and prohibits Government censorship, an interdiction which also extends to the print media.

476. The Mass Media Act of 21 July 1992, the Freedom of Information Act of 19 June 1998 and the Copyright and Related Rights Act of 5 June 1996, which settles a range of issues to do with journalists' copyright, are important texts for ensuring the inalienable human right to freedom of speech in Azerbaijan.

477. Article 29 of the Mass Media Act states that citizens are entitled to obtain prompt and reliable information via the media about the work of State and public bodies, social organizations and officials. The media have a right to acquire such information from State organizations, public associations and officials.

478. The Mass Media Act of 21 July 1992 has become outdated. It made provision, inter alia, for the registration of mass media with the Ministry of the Press and Information. The Presidential Decree of 4 October 1997 confirming a list of activities that require special licences abolished this procedure and executive bodies are now required to issue a special licence to persons or organizations involved in disseminating information.

479. The new mass media bill currently in preparation will reflect the developments that have taken place in the media.

480. On 17 January 1997 the Official Secrets Act was promulgated. This specifies what information qualifies as a State secret, the principles governing classification of information, the procedure for declassifying information, and the procedure for authorizing officials and citizens to work with State secrets.

481. With a view to amplifying the relevant provisions of the Constitution, on 6 August 1998 the President promulgated a Decree on additional measures to ensure freedom of expression, opinion and information in the Azerbaijan Republic.

482. This Decree abolished the Principal Directorate for the Protection of State Secrets in the Press and Mass Media, which used to report to the Cabinet of Ministers.

483. Under the Decree, the media are exempt from value-added tax. The Decree also provides for a range of concessions to stimulate the media and for financial assistance to a number of newspapers and magazines.

484. The Decree provides for action to give effect to international agreements and develop mutual ties and cooperation with relevant international structures and non-governmental social organizations in this field.

485. Pursuant to the Decree, it is intended, in particular, to align statutory and regulatory instruments with international standards, and to ensure the full and effective implementation of relevant international agreements.

486. The Freedom of Information Act of 19 June 1998 regulates issues to do with the unimpeded procurement and use of information by journalists.

487. This Act was drafted in accordance with the relevant international standards.

488. There are three independent nationwide broadcasting channels in Azerbaijan, namely ANS, SARA and SPACE, as well as a number of regional television stations.

489. Some 300 newspapers and magazines are published in Azerbaijan. Among the most popular are Zerkalo, Azerbaijan, Khalg gazeti, 525 and an English-language newspaper, Azeri News.

490. Azerbaijan is committed to building a democratic society and therefore attaches considerable significance to international cooperation in this area, as demonstrated by its strengthened cooperation in various spheres with the Organization for Security and Cooperation in Europe (OSCE) and the Council of Europe.

491. In the past 18 months three seminars have been held in Baku under the joint auspices of the Council of Europe and the Azerbaijani Ministry of Foreign Affairs. These events were devoted to various aspects of the freedom of the mass media in a democracy ("The mass media in a democracy", held on 9-10 October 1997; "Rights and responsibilities of journalists", held on 6-7 April 1998; and "Regulating the press in a democracy", held on 10-11 November 1998).

492. The Government sets great store by its fruitful and mutually beneficial cooperation with Mr. Freimut Duve, the OSCE Representative on Freedom of the Media, who visited Azerbaijan between 22 and 25 February 1999 at the invitation of the Minister for Foreign Affairs.

493. During the visit, Mr. Duve noted the positive cooperation between his Office and Azerbaijan and stressed the need for the Government to press ahead with its plans to build a democratic and secular society governed by the rule of law.

494. Mr Duve termed the continuation of the reforms aimed at developing free, pluralistic and independent mass media an integral part of this process.

495. While emphasizing positive developments such as the existence of a free press and the abolition of censorship, Mr. Duve also drew attention to certain unresolved issues, such as defects in existing legislation on the mass media.

496. As noted above, the Azerbaijani Government is working closely with the Special Rapporteurs of the United Nations Commission on Human Rights, particularly the Special Rapporteur on freedom of opinion and expression.

497. In his report to the fifty-fifth session of the Commission on Human Rights, Mr. Abid Hussain, the Special Rapporteur on freedom of opinion and expression, stated that pursuant to written exchanges, he "thanked the Government of Azerbaijan for the detailed reply provided and the willingness shown to cooperate with his mandate".

ARTICLE 20

498. Article 9 of the Azerbaijani Constitution repudiates war as a means of encroaching on the independence of other States and resolving international conflicts.

499. Under article 64 of the Criminal Code, it is an offence to disseminate war propaganda in any form.

500. Under article 67 of the Criminal Code, entitled Violation of national and racial equality, it is an offence wilfully to commit acts intended to excite national or racial hatred or strife, to insult national honour and dignity, or directly or indirectly to restrict the rights of, or privilege citizens on account of their race or national origin. When such acts are accompanied by violence, deception or threats, are committed by an official or a group, or result in death or other serious consequences, that constitutes an aggravating circumstance. The offences described in this article of the Criminal Code are regarded as State crimes.

501. Article 4 of the Political Parties Act prohibits the formation and operation of political parties whose purpose or practice involve the fomentation of racial, national or religious strife.

502. Similar provisions are to be found in article 4 of the Voluntary Associations Act of 10 November 1992 and article 8 of the Trade Unions Act of 24 February 1994.

503. Article 4 of the Mass Media Act of 21 July 1992 prohibits the use of the media for the dissemination of racial, national, religious or other exclusive propaganda.

504. Azerbaijan has thus adopted and applies all the necessary legal standards criminalizing racist activity and war propaganda.

505. Since the re-establishment of Azerbaijan's independence, the national law-enforcement agencies have not recorded a single case of discrimination on racial, national or ethnic grounds.

ARTICLE 21

506. Article 49 of the Constitution stipulates that everyone has the right to freedom of assembly. Subject to the provision of advance notice to the relevant State authorities, everyone has the right of peaceful, unarmed assembly and the right to hold meetings, rallies, demonstrations and street processions and to picket.

507. Under article 3 of the Freedom of Assembly Act, the State guarantees the right of freedom of assembly and undertakes to support the holding of peaceful, unarmed meetings organized in accordance with the Act.

508. Article 5 of this Act states that the person or persons organizing a meeting shall notify the relevant executive authorities of this fact in writing at least five days prior to the event.

509. Articles 7 to 9 of the Act establish grounds for the rejection of an application to hold a meeting. Possible grounds for rejection are, inter alia

(1) Protection of public safety or State security;

(2) Prevention of public order violations;

(3) Protection of public health;

(4) Prevention of riots or crime.

510. If an application is rejected, the organizers are entitled under article 11 of the Act, to petition the courts, which must examine the matter within three days.

511. The ruling of a lower court on such a petition may not be challenged in a higher court.

512. Under article 175-2 of the Code of Administrative Offences, administrative liability arises for violations of the established procedure for the organization or conduct of meetings, rallies, street processions or demonstrations.

513. Organizers of meetings, rallies, street processions or demonstrations who repeat this administrative offence within one year of the imposition of an administrative penalty incur liability under article 188-4 of the Criminal Code.

514. Under article 188-5 of the Criminal Code, it is an offence to hold a forbidden strike or to impede the work of an enterprise, institution or organization during a state of emergency.

Instructions for law-enforcement officials dealing with applications from persons wishing to exercise their right of peaceful assembly

515. The rights and duties of the agencies responsible for protecting public order and safety during rallies, meetings, street processions and picketing are covered by the Freedom of Assembly Act of 13 November 1998.

ARTICLE 22

516. The implementation of article 22 of the Covenant is regulated by the Constitution, the State Registration (of Legal Persons) Act of 6 February 1996, the Enterprises Act

of 1 July 1994, the Joint-Stock Company Act of 12 July 1994, the Voluntary Associations Act of 10 November 1992, the Political Parties Act of 3 June 1992 and the list of documents required for the official registration of political parties.

517. Article 54 of the Constitution states that Azerbaijani citizens have the right to participate freely in political and public life.

518. The right to freedom of association is guaranteed by article 58 of the Azerbaijani Constitution:

I. Everyone has the right to freely associate with others.

II. Everyone has the right to form any association, including a political party, a trade union or another social association, or to join an existing association. The freedom of activity of all associations is guaranteed.

III. No one may be compelled to join an association or remain a member of an association.

IV. Associations that pursue the goal of violently overthrowing the lawful State power in any part of the Azerbaijan Republic are prohibited. The activity of associations which violate the Constitution and the law may only be terminated judicially.

519. Azerbaijan is a member State of the International Labour Organization (ILO) and accordingly has ratified that body's Convention (No. 87) concerning Freedom of Association and Protection of the Right to Organise, Convention (No. 98) concerning the Application of the Principles of the Right to Organise and to Bargain Collectively, the Convention (No. 135) concerning Protection and Facilities to be Afforded to Workers' Representatives in the Undertaking, and Convention (No. 154) concerning the Promotion of Collective Bargaining.

520. The Government submits regular reports to ILO on the steps it has taken to give effect to the requirements of these Conventions.

521. The Labour Code contains a separate chapter on collective bargaining and agreements and the hearing of collective labour disputes, as well as corresponding articles on workers' representatives and trade unions.

522. Although the new Labour Code has come into force, the earlier Trade Unions Act remains in force to the extent that it is not incompatible with the new Code.

Trade Unions

523. Under the Trade Unions Act, workers, pensioners and persons with educational qualifications are equally entitled to form trade unions on a voluntary basis, by their own choice and without prior authorization. They may also join trade unions to protect their legitimate interests and labour, social and economic rights, and to perform trade union work.

524. Only persons performing military service for the Azerbaijan Republic are barred from forming trade unions.

525. The Act provides that trade unions shall be independent of the State authorities and of institutions, political parties and social associations and shall not be accountable to them.

526. All interference that may restrict the exercise of the trade union rights provided for under the Trade Unions Act is prohibited.

527. The Act guarantees the right of workers to join trade unions, other workers' representative bodies and social organizations.

528. The Trade Union Confederation of Azerbaijan comprises, on a voluntary basis, 29 sectoral trade unions, as well as inter-sectoral associations of the Nakhichevan Autonomous Republic. These cover over 2 million trade unionists in 17,000 trade union organizations. The Confederation operates in accordance with the Constitution, the Trade Unions Act and its own Charter. It has an Executive Committee, an Assembly and a Congress.

529. The following organizations are subordinate to the Confederation: the editorial board of the newspaper Ulfat; the joint-stock company "Kurort"; the national council for tourism and excursions; the trade union study guidance and cultural centre; and the association of trade union sports organizations.

530. Azerbaijani trade unions are organizations for voicing and protecting the economic, social and labour rights and interests of trade unionists and wage labourers.

531. The Confederation comprises the following trade unions (as of 1 January 1999):

The National Committee of the Union of Aviation Workers;

The National Committee of the Independent Union of Motor Transport and Highway Workers;

The National Committee of the Union of Agroindustrial Workers;

The National Committee of the Free Union of Fisheries Workers;

The National Committee of the Union of Gas Supply Workers;

The National Committee of the Free Union of Poultry Workers;

The National Committee of the Independent Union of Railway Workers and Transport Engineers;

The National Committee of the Independent Union of Maritime Transport Workers;

The Central Committee of the State Institutions and Public Service Workers' Union;

The National Committee of the Union of Power Station and Electrical Engineers Workers;

The National Committee of the Independent Union of Entrepreneurs and Scientific and Research - and - Production Enterprises;

The National Committee of the Local Industrial and Public Utilities Workers' Union;

The National Committee of the Independent Union of Construction Workers;

The National Committee of the Free Union of Chemical Industry Workers;

The National Committee of the Geology, Geodesy and Cartography Trade Union;

The Federation Metal Workers' Unions;

The National Committee of the Forestry Workers' Union;

The National Committee of the Independent Union of Cultural Workers;

The Central Committee of the Union of Defence Industry Workers;

The National Committee of the Union of Oil and Gas Industry Workers;

The National Committee of the Independent Union of Communications Workers;

The National Committee of the Union of Sanatorium, Health Resort and Tourism Industry Workers;

The National Committee of the Union of Health Workers;

The National Committee of the Union of Cereal Product Workers;

The National Committee of the Free Union of Education Workers;

The National Committee of Commercial, Public Service and Consumer Cooperative Workers;

The National Committee of the Independent Union of Weavers and Light Industrial Workers;

The National Committee of the Independent Union of Hydrometeorological Service Workers;

The Council of Trade Unions of the Nakhichevan Autonomous Republic.

532. Against the background of the transition to a market economy and the reform of property relations, the trade unions' strategic goal is the adoption of an economic policy that offers genuine employment, avoids excessive exploitation, provides equal opportunities for those able and willing to work, and ensures a decent standard of living.

533. On the threshold of the third millennium, trade union activity is based on an awareness of the indivisibility of the national union movement and the realization that wage earners are the trade unions' core constituency.

534. Responsibility for devising and implementing a uniform national policy belongs to the Congress of the Trade Union Confederation of Azerbaijan, which is convened at five-yearly intervals. The decisions of the Congress are binding on all trade union structures. In the intervals between congresses, the highest-ranking body of the Confederation is the Assembly, which is elected on the basis of equal representation. Decisions of the Confederation are taken in accordance with the powers granted by member organizations and institutions in the Confederation's Charter and the Guidelines for the Work of Trade Unions, which are programme documents.

535. In performing their functions and in their modes and methods of work, Azerbaijani trade unions build on the overall accomplishments of the international trade union movement.

536. The core functions of the Confederation are:

- To represent the interests of member organizations to the authorities;
- To participate in the drafting of statutory instruments concerning labour and socio-economic issues and to suggest revisions of statutes and subsidiary instruments that run counter to trade unionists' rights and interests;
- To implement measures to protect citizens' right to work taking account of price rises and increases in the cost of living, and to monitor compliance with legislation on employment guarantees;
- To participate in the international trade union movement;
- To administer subordinate organizations providing sanatorium, health resort and leisure facilities for working people, and also tourist excursions, cultural and educational pursuits, and physical-fitness and health-building programmes.

537. Unemployment, the widespread recourse to compulsory leave without pay and other undesirable side effects of the transition period demand an energetic response from the trade unions. Accordingly, although the principle of the relationship between trade unions and the Government is that of social partnership, recourse to exceptional measures such as strikes is not ruled out. However, the conclusion of collective agreements and bargains enables a number of problems to be resolved in a civilized manner, without confrontation, and without endangering social stability.

538. The conclusion of an overarching collective agreement between the trade unions and the Cabinet of Ministers is one example of this social partnership.

539. The Confederation is continuing its constructive cooperation with the Ministry of Labour and Social Welfare, the Ministry of Finance, the Ministry of Education, the Ministry of Youth and Sport, the Social Protection Fund, war veterans' organizations, refugee organizations and other ministries and departments involved in protecting the social and economic interests of working people in Azerbaijan.

540. The Confederation collaborates with sectoral trade unions in drawing up regulatory documents and instructions pertaining to their work and organizes training for trade union officers and activists.

541. Great attention is paid to cultural and educational activities and sports institutions. Trade unions currently have the use of 224 clubs and cultural and recreation centres, 260 libraries, dedicated children's holiday camps, and 60 sports centres, stadiums, gymnasiums and swimming pools catering for 2,200 physical fitness and sports groups.

542. Future developments in international trade union activity include cooperation with trade unions from the sovereign States of the former USSR, Turkey, Israel, Germany, China and other countries. The links will enable Azerbaijani trade unionists to study the experience of their foreign counterparts and conclude bilateral agreements for joint action on a wide range of issues, including protection of social and economic rights, organization of restorative holidays and leisure activities for working people, the holding of solidarity events and provision of assistance to trade unionists in difficult circumstances.

543. The most serious problem currently facing the trade union movement is that of membership. Under the Trade Unions Act, all working people have an equal right to form trade unions on a voluntary basis, by their own choice and without prior authorization. But in the present climate, which has seen a fundamental realignment of the whole system of industrial relations, major changes in the nature and organization of work are having far-reaching implications for working people and trade unions alike. In some cases employers are trying to divide working people and create obstacles to the formation of workers' associations and trade unions in order to reduce their influence over the course of events, for example by weakening the unions' standard-setting and monitoring roles. The First Congress of the Confederation of Trade Unions, which was held in February 1998, therefore set itself the goal of uniting the efforts to protect working people and uphold trade union and human rights.

Voluntary associations

544. Article 3 of the Voluntary Associations Act states that such associations shall be established and operated voluntarily, on the basis of equal membership or participation, and in accordance with the principles of self-government, legality and transparency.

545. In order to fulfil the purposes and objectives defined in their charters, statutes and programme documents, voluntary associations may freely distribute information about their aims and work; join together in unions and federations; represent and defend the legitimate interests of

their members or participants before the authorities and political and voluntary organizations; and perform other functions provided for in the Voluntary Association's Act and other statutory instruments.

546. Voluntary associations have a right defined by law, to found mass media outlets and hold rallies, demonstrations, meetings and other mass events. Voluntary associations may not interfere in the work of State organs or officials.

547. All voluntary associations are required to operate within the framework of the Constitution and laws of the Azerbaijan Republic.

548. The State guarantees observance of voluntary associations' rights and legitimate interests and the conditions for them to fulfil their objectives in accordance with the Constitution and the law. Interference by the authorities or officials in the activities of voluntary organizations is prohibited, except as specified otherwise by law. Issues affecting the interests of voluntary associations shall, in the instances defined by law, be settled by the authorities and economic organizations with the involvement or consent of the voluntary associations concerned.

Political parties

549. Article 1 of the Political Parties Act states that "political parties" shall be interpreted to mean associations of citizens of Azerbaijan who share common political ideas and aims and who participate in national political life. Political parties are actively involved in moulding citizens' political will on the basis of their aims and objectives, which must be consistent with the Constitution and laws of the Azerbaijan Republic.

550. Political parties are established and operate in accordance with the principles of freedom of association, voluntariness, the equality of their members, self-government, legality and transparency.

551. Article 4 of the Political Parties Act states that political parties must be established on the territorial principle. The founders of a political party must convene a constituent congress (conference) or a general meeting to adopt the organization's charter and establish its governing bodies. In order to be registered, a political party must have a membership of at least 1,000 Azerbaijani citizens. It is prohibited to establish or operate a political party whose aim or tactics involve the overthrow of the Azerbaijan Republic, violent change to its constitutional structure or violation of its territorial integrity, or war propaganda, violence or cruelty, fomentation of racial, national or religious strife, or any other acts inconsistent with the country's constitutional system or obligations under international law. It is illegal to establish or operate foreign political parties or sections or subordinate organizations thereof on Azerbaijani soil.

552. In order to fulfil the purposes and objectives defined in their charters and programme documents, political parties may freely distribute information about their aims and work; join together in political blocs, unions federations or associations; democratically participate (either independently or as part of a bloc or union with other parties and organizations) in presidential and parliamentary elections and ballots for other elective State bodies, and in the formation of the country's executive bodies; democratically influence decision-making by the State

authorities; represent and defend their members' interests before the authorities and public bodies; and perform other functions provided for in the Act and other statutory instruments.

553. Political parties do not have the right to interfere in the work of State organs or officials.

554. Parties are entitled to distribute information about their activities, disseminate their ideas, aims and programmes and found mass media outlets and to hold rallies, demonstrations, meetings and other mass events in accordance with legally established procedures.

555. The governing bodies of political parties must be located in the Azerbaijan Republic.

556. The State guarantees observance of political parties' rights and legitimate interests and the creation in accordance with the Constitution and the law of equal legal conditions for parties to fulfil the objectives set forth in their charters, and distribute their documents through the State print media. It also guarantees the protection and security of political parties' governing bodies and the creation and equipment to that end of a State Protection Service. Interference by the authorities or officials in the activities of political parties is prohibited, except as specified otherwise by law. (Political Parties Act, art. 13).

557. Political parties must register their charters with the Ministry of Justice. Registration applications are considered within one month of receipt by the Ministry. A political party is deemed to be legal person under Azerbaijani law from the date of registration of its charter.

558. There are currently 34 political parties functioning in Azerbaijan.

Procedure for registration of corporations

559. Article 4 of the Official Registration (Legal Persons) Act states: "The uniform State registration of legal persons and branches and representative offices of foreign legal persons in the Azerbaijan Republic shall be effected by the justice authorities as specified in this Act."

560. The official registration authorities' functions include registering and, in the cases provided for by law refusing to register legal persons and branches and representative offices of foreign legal persons, and notifying the relevant State authorities of the completion of official registration formalities for such entities, or, as appropriate, of their liquidation in circumstances specified by law (art. 5 of the Act).

ARTICLE 23

561. Article 23 of the Covenant is dealt with in the Azerbaijani Constitution, the Marriage and Family Code and the Criminal Code.

562. Article 17 of the Constitution states that the family is the primary unit of society and as such is protected by the State. Parents have a duty to care for and raise their children. The State ensures that this duty is performed.

563. Everyone is equal before the law and the courts. Men and women enjoy equal rights and freedoms (art. 25 of the Constitution).

564. Article 34 of the Constitution states that everyone has the right to found a family upon attaining the age specified by law. Marriages must be entered into voluntarily. No one may be compelled to enter into marriage.

The family and marriage are protected by the State.

Maternity, paternity and childhood are protected by the law.

The State provides assistance to large families. Spouses enjoy equal rights.

565. Parents have both a right and a duty to care for and raise their children. Children have a duty to respect and care for their parents. On reaching the age of 18, able-bodied children have a duty to support their invalid parents.

566. Under the Criminal Code, it is an offence to compel a woman to enter into marriage against her will, or to prevent her from marrying according to her choice, or to use violence or the threat of violence in such circumstances.

567. The procedure for entry into and dissolution of marriage is described in more detail in the initial report of Azerbaijan.

ARTICLE 24

Legal protection of the rights of the child

568. Issues connected with the social and legal protection of children are dealt with by the Constitution, the Azerbaijani Citizenship Act, the Legal Status of Aliens and Stateless Persons Act, the State Youth Policy Act, the Labour Code and other statutory and regulatory instruments.

569. The Labour Code deals with the issues of employment of minors, their right to leisure time (leave), the length of their working day and other matters pertaining to the protection of young people's rights in the area of employment and labour practices.

570. The Labour Code states that the minimum age of employment is 15 years.

571. The Civil Code contains provisions on protecting the interests of children, establishes the age of majority, defines the procedure for acquiring full and partial legal competence, and deals with liability for property and material damage caused by children and minors.

572. The Marriage and Family Code stipulates the rights and duties of children in relation to their parents and parental rights and duties towards their children, lays down the procedure for the acquisition and changing of a child's first name, family name or nationality, and regulates the activity of guardianship and curatorship bodies.

573. The Health Care Act contains measures to protect and strengthen children's health and mental and physical development.

574. The Rights of the Child Act, which was ratified by Presidential Decree No. 761 of 24 August 1998, fully conforms to international instruments such as the Universal Declaration of Human Rights, the 1959 Declaration of the Rights of the Child, and the Convention on the Rights of the Child.

575. Under the terms of this Act, the State aims to provide social, economic and cultural protection for maternity, the family, childhood and the national gene pool.

576. Azerbaijan acceded to the Convention on the Rights of the Child on 21 June 1992.

577. At its twenty-fifth session in June 1997, the Committee on the Rights of the Child considered the initial report of Azerbaijan on the implementation of the rights of the child.

578. Pursuant to the consideration of that report and to the Committee's recommendations thereon, the Azerbaijani Government has adopted a programme of measures and established a working group to bring together interested State and non-governmental organizations (NGOs).

579. The programme makes provision for the following measures:

- Further consideration of the issue of Azerbaijan's accession to international legal instruments dealing with children's rights;

- The organizing and holding of seminars jointly with international organizations;

- The preparation and publication of an annual report entitled "The Situation of Children in Azerbaijan";

- The preparation of a national political blueprint for State action relating to children.

580. The Convention on the Rights of the Child has been translated into Azerbaijani and has been incorporated into the curriculum of general secondary schools. A broad-based programme for monitoring the study of the Convention is being implemented. Legal experts, judges, lawyers, staff at children's institutions, teachers, and health and social workers are all involved in this initiative.

581. A detailed description of the steps taken in connection with article 24, paragraph 2, of the Covenant was given in the initial report.

582. Article 11 of the Azerbaijani Citizenship Act states that the following qualify as citizens of Azerbaijan: persons born in Azerbaijan, persons whose parents are citizens of Azerbaijan and persons who have one Azerbaijani parent.

583. The Act provides for the acquisition of Azerbaijani citizenship by children born in Azerbaijan to stateless or unidentified persons.

584. Chapter III of this Act deals with children's citizenship in the event of a change in their parents' citizenship or of adoption.

585. Despite the measures taken by the Government to protect the rights of the child, the authorities are still encountering problems in this area owing to the ongoing Armenian aggression against Azerbaijan.

586. It is a matter of particular concern that children are among the hostages still being illegally detained by the Armenians.

587. The following educational establishments have been destroyed in the occupied areas: 242 pre-school institutions catering for 12,000 children, 616 general secondary schools catering for 117,000 students, 4 technical colleges, the Shusha branch of the Nasreddin Tusi Pedagogical University, 11 vocational-technical colleges catering for 4,680 students, and 34 youth clubs and centres.

588. A total of 28 infant schools catering for 7,300 children and 712 general secondary schools are operating in refugee centres. Additional measures are being taken to organize an educational programme for the remaining refugee children.

589. Orders of the Cabinet of Ministers No. 128 (1 April 1993), No. 328 (25 June 1993), No. 403 (21 July 1993) provide for a range of measures to improve the situation of the children of refugees and forcibly displaced persons who have fled their homes owing to the Armenian aggression. These measures include the provision of temporary schools, pre-school facilities and a lump-sum benefit payment.

590. The Government is continuing to do everything it can to improve the social status of refugees and forcibly displaced persons. A Presidential Order of 17 September 1998 approved the State programme to address the specific problems of these groups, thereby underscoring the importance of this matter.

591. This programme envisages the following measures:

- In general secondary schools provision of free text books for the children of refugees or forcibly displaced persons;

- Summer holidays for children of refugees and forcibly displaced persons and pupils living in tent cities and camps.

ARTICLE 25

592. Implementation of article 25 of the Covenant is dealt with in the Constitution, the Criminal Code, the Code of Administrative Offences, the Election of the President of the Azerbaijan Republic Act of 9 September 1998, the Courts and Judges Act of 10 July 1997, and the Election of the National Assembly Election Act of 12 August 1995.

593. Under article 55 of the Constitution, citizens of Azerbaijan have the right to take part in the conduct of public affairs. They may exercise this right either directly or through their representatives.

594. Citizens of Azerbaijan have the right to serve in State bodies and officials of those bodies must be appointed from among them.

595. Aliens and stateless persons may join the civil service in accordance with the procedure established by law.

596. Under article 56 of the Constitution, citizens of the Azerbaijan Republic have the right to elect and be elected to State bodies and to participate in referendums. Persons who have been declared legally incompetent pursuant to the decision of a court are not entitled to participate in elections or referendums. The electoral rights of military personnel, judges, government employees, clerics, persons deprived of their liberty pursuant to an enforceable court judgement and other individuals specified by the Constitution and the law may be circumscribed by law.

597. Deputies of the Milli Mejlis of the Azerbaijan Republic are elected by the majority and proportional representation systems on the basis of universal, equal and direct elections in a free, personal and secret ballot.

598. The Constitution states that the President shall be elected for a five-year term in a universal, direct and equal election by free, personal and secret ballot. The majority required for election is two thirds of the votes cast.

599. If this majority cannot be secured in the first round of voting, a second round must be held on the second Sunday following the first round.

600. Such a second round is open only to the two candidates who secured the most votes in the first round, or the two runners-up to the candidates who secured the most votes but subsequently withdrew their candidacies.

601. The candidate who secures a simple majority in the second round of voting shall be considered elected as President of the Azerbaijan Republic. No one may be re-elected President more than twice.

602. The results of the Presidential election must be officially published by the Constitutional Court within seven days of the ballot.

603. Article 134 of the Criminal Code makes it an offence to impede by means of violence, threats, bribery or any other method citizens' free exercise of their right to vote in elections or their right to vote in referendums.

604. Persons who, within one year of the imposition of an administrative penalty for breach of the law on elections and popular votes (referendums), repeat the offence incur liability under article 135-1 of the Criminal Code.

605. The Administrative Offences Code specifies various administrative penalties for the following offences:

- Impeding the work of an electoral or referendum commission;
- Violating the canvassing guidelines in elections and referendums;
- Wilful destruction of publicity or canvassing materials, or preventing contact between candidates and electors;
- Dissemination of what is known to be false information about a candidate;
- Violation of the rights of a member of an electoral or referendum commission, a returning officer or an electoral observer.

606. Article 1 of the Elections (National Assembly) Act states: "The National Assembly of the Azerbaijan Republic, as the country's highest legislative body, shall be elected by citizens of the Azerbaijan Republic in accordance with the procedure established by this Act, using the majority and proportional representation systems, and on the basis in universal, equal and direct elections by free, personal and secret ballot."

607. Article 3 of the same Act states that all citizens aged 18 or more have the right to elect a deputy, and citizens aged 25 or more on the date of the election have the right to be elected deputies.

608. Clerics, persons performing compulsory military or alternative service and, regardless of whether their criminal record has been expunged persons convicted of serious crimes, under article 7-1 of the Criminal Code, may not be elected deputies. The same applies to persons serving a custodial sentence pursuant to an enforceable court judgement and citizens declared by a court to lack legal capacity.

609. Article 3 of the Referendum Act of 30 December 1997 states: "Referendums shall be conducted on the basis of the right to expression of the people's will by means of a universal, equal, free, secret and personal ballot".

610. It is prohibited to restrict the electoral rights of citizens on account of their origin, political views, social or property status, race, nationality, sex, education, language, attitude to religion or type or nature of occupation.

611. Elections must be prepared and conducted openly. Both individual citizens and political parties are guaranteed the right to canvass for or against candidates at meetings and other assemblies of citizens and in the mass media. All events connected with the organization of elections must be reported in the mass media at least two days before they begin.

612. Electoral commissions must provide citizens with information about: their own work; the formation of electoral districts and constituencies; the composition, location and working hours of electoral commissions; electoral rolls; nomination of candidates; and the results of ballots and elections.

613. Candidates' agents and representatives of the political parties contesting the election are entitled to be present at meetings of electoral commissions, during the voting, during vote-counting in constituencies, and at the announcement of the results. They must be in possession of a document displaying their credentials. It is prohibited unlawfully to interfere in the work of electoral commissions or to exert unlawful influence on them.

614. The organization, preparation and conduct of elections to the National Assembly are funded from the national budget.

615. National and district budget funds may not be used to promote candidates or canvass for them, except as provided otherwise by law.

616. Responsibility for the organization, preparation and conduct of elections to the National Assembly lies with the Central Electoral Commission and the district and constituency electoral commissions.

617. The electoral roll in a given constituency comprises the Azerbaijani citizens eligible to vote who are resident in the constituency when the electoral roll is drawn up.

618. Azerbaijani citizens who are outside the country at least 40 days before an election (or at such time closer to an election as the Central Electoral Commission may specify) may apply to an Azerbaijani diplomatic mission to be included on an electoral roll.

619. Article 54 of the Elections (National Assembly) Act states that voting shall take place on polling day between 08.00 and 22.00 hours at premises designated by the constituency electoral commission. Voters must cast their votes in the constituency where their names appear on the electoral roll.

620. Pursuant to article 82 of the Act, the falsification of electoral documents or the commission of other unlawful actions during a poll results in the annulment of the election. Every independent candidate and every political party contesting the election may challenge such an annulment in the Constitutional Court within five days of the election results being announced. The decision of the Constitutional Court in the matter is final.

621. Article 1 of the Elections (President of the Azerbaijan Republic) Act states that the general principles governing presidential elections shall be determined by articles 100 to 103 of the Azerbaijani Constitution.

622. Article 10 of this Act provides that the organization and conduct of presidential elections are the responsibility of the Central Electoral Commission and the district and constituency presidential electoral commissions.

ARTICLE 26

Equality before the law and right of defence

623. Information concerning the right of equality before the law and the right of defence may be found in previous sections of this report referring to articles 2, 3, 14, 23 and 25 of the Covenant and in Azerbaijan's initial reports on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women, the International Convention on the Elimination of All Forms of Racial Discrimination, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

ARTICLE 27

624. In accordance with Act No. 95-IQ of 31 May 1996, which was duly passed by the National Assembly (Parliament) and signed by the President, Azerbaijan has become a party to the International Convention on the Elimination of All Forms of Racial Discrimination.

625. The International Convention on the Elimination of All Forms of Racial Discrimination entered into force for Azerbaijan on 15 September 1996.

626. In accordance with article 9, paragraph 1, of the Convention, Azerbaijan prepared and submitted its initial report to the Committee on the Elimination of Racial Discrimination on 16 November 1998.

627. The Constitution and law of Azerbaijan prohibit racial discrimination, which accordingly does not exist in the country. The recognition, application and realization of human rights and fundamental freedoms in the political, economic, social, cultural and other areas of public life on an equal basis are encouraged and protected.

628. The State guarantees the equal rights and freedoms of all, regardless of race, skin colour, ancestral, national or ethnic origin or other distinctions, and prohibits limitation of the rights and freedoms of human beings and citizens on account of those factors.

629. Azerbaijan is a multi-ethnic country and the Government is taking the necessary steps to create conditions for the undeviating realization of individual rights and freedoms, equality for all citizens, and the active and equal involvement of minorities in all areas of public life.

630. Azerbaijan's various minorities are broadly represented in official State structures, the Government, and the National Assembly. In towns, districts, settlements and villages with a significant minority population, representatives of the local population hold the top posts in State bodies - clear proof of the realization of the human rights and personal freedoms proclaimed in Azerbaijan and of the equality of all citizens regardless of their race, ethnic origin or religion.

631. In recent years, various minority-run cultural centres, charities and other social organizations have been established in Azerbaijan. These organizations, which together cater for

all the minorities living in the country, receive strong material and financial support from the national budget and the Presidential Fund, for example in the form of land allocations and tax exemptions.

632. In addition to the majority Azerbaijani population, the country is home to Lezgin, Avar, Talysh, Tsakhur, Kurdish, Armenian, Udi, Russian, Ukrainian, Tatar, Belarusian and other minorities.

A. Education and instruction

633. Citizens of the Azerbaijani Republic are entitled to free instruction in State educational institutions. Supplementary fee-paying study groups may be additionally organized within these educational institutions.

634. There were 2,270 foreign students studying at institutions of higher education at the beginning of the academic year 1997-1998.

635. The State is working in a variety of ways to enlist the cooperation of foreign government structures and NGOs in the process of educating pupils and students from Azerbaijan abroad. In particular, on the basis of intergovernmental treaties and interdepartmental agreements, Azerbaijani pupils and students are receiving free education in Turkey, the United States of America, Kuwait, Egypt, Jordan, the Sudan, the Islamic Republic of Iran, Poland, Germany, Israel and China.

636. A Council has been set up within the Ministry of Education to prepare and publish the programmes, teaching aids and textbooks necessary for teaching minority languages.

637. At two schools in districts populated by large numbers of ethnic Georgians, instruction is in three languages: Azerbaijani, Georgian and Russian.

638. Schools in districts with large minority populations have started to teach the native language, history and national culture for two hours a week. Instruction on this model is offered in the Lezgin, Tat, Talysh and other languages.

639. The State's attitude to the language of the people living in the mountain village of Khynalyg is worth noting. Despite the fact that the language spoken by these villagers does not fit into any language group and is spoken by the population of only one village, books are published in the Khynalyg language, and there is also a Khynalyg cultural centre.

640. In 1997 the State funded editions of primers and other textbooks in the following languages: Russian, Talysh, Kurdish, Lezgin, Tsakhur and Tat.

641. Before the Armenian aggression against Azerbaijan, there were, in the former Nagorny Karabakh Autonomous Region of Azerbaijan (NKAO), in the 1988-1989 academic year 136 general secondary schools in which the language of instruction was Armenian (16,120 pupils) and 13 international schools (7,045 pupils). In all, there were in Azerbaijan in the same academic year a total of 181 Armenian secondary schools (20,712 pupils)

and 29 international schools (12,766 pupils). In the town of Hankendi (formerly Stepanakert) there was a State Pedagogical Institute whose Armenian, Azerbaijani and Russian departments catered for over 2,130 students a year, most of them Armenians. In addition, there were dozens of technical colleges and vocational training schools in the NKAO where the languages of instruction were Armenian and Russian.

B. Culture

642. Article 17 of the Culture Act of 6 February 1998 and other legal instruments concerning culture establish the right and duty of the State to intervene in cultural matters in the event of violence or racial discrimination.

643. Support for the national languages and cultures of all minorities living in Azerbaijan is an important element in the Government's policy on nationalities.

644. The following minority organizations and cultural centres are operating in Azerbaijan:

- The "Mada" International Association (Talysh)
- The "Avesta" Association (Talysh)
- The Talysh Cultural Centre
- The "Ronai" Kurdish Cultural Centre
- The "Samur" Lezgin Centre
- The Society of the Dagestani-speaking mountain peoples of Azerbaijan
- The "Dagestan" Cultural Centre
- The Tsakhur Cultural Centre
- The "Orain" Udi Cultural Centre
- The "Imam Shamil" Avar Centre
- The Lagych Charitable Association
- The "Azeri" Tat Cultural Centre
- The Russian Community of Azerbaijan
- The Cultural Centre of the Slavs of Azerbaijan
- The "Sodruzhestvo" Society

- The Tatar Community of Azerbaijan
- The "Tugan Tel" Tatar Cultural Centre
- The "Veten" Meskhetian Turks Society
- The "Akhyska"Meskhetian Turks Cultural Centre
- The "Budug" Cultural Centre
- The "Shakhdag" Cultural Centre
- The Community of European Jews
- The Community of Mountain Jews
- The "Azerbaijan-Israel" Society
- The "Judaica" International Society
- The German National-Cultural Association
- The "Khynalyg" Cultural Centre.

645. Azerbaijan today has an extensive network of approximately 14,000 State, departmental, trade union, private and commercial cultural facilities. These include theatres, concert organizations and halls, museums, art galleries and exhibition halls, parks, clubs and leisure centres, libraries, conservatoires, and art colleges.

646. There are at present 25 State theatres, over 140 museums and their branches, 27 art galleries, and 10,000 libraries with a total stock of 100 million books. Over 140,000 people are employed in the 4,000 clubs which bring together over 10,000 community, specialist-interest, and amateur groups. A total of 75,000 children and teenagers are studying and familiarizing themselves with culture and a range of different artistic forms and genres in 270 conservatoires and art colleges.

647. In districts with significant minority populations, there are club-based community associations, national and State theatres, and amateur associations and clubs catering for various interests. These include the Lezgin State theatre in Kusary district, the Georgian National Theatre and National Puppet Theatre in Kakhi district, Talysh folklore groups in the Astara and Masally districts, the "Adygyun" Turkish folklore group in Saatly district, and the "Tugan tel" Tatar choir and dance troupe and the Russian "Sudarushka" ensemble in Baku.

648. Azerbaijan's cultural heritage has been seriously damaged as a result of Armenia's armed Armenian aggression against the country. Clear confirmation of the vandalism of the occupying forces is the war they have declared on the Azerbaijani cultural heritage in the occupied

territories, where unique cultural, historical and architectural sites have been completely or partially destroyed. Moreover, a large number of works by painters and sculptors, costly decorations, decorative and applied art objects, valuable manuscripts - both from museum exhibits and from private collections - have been taken away to Armenia as trophies by the occupiers.

649. The fate of the destroyed sites and plundered treasures was placed on record by the Azerbaijani Minister for Foreign Affairs in November 1993 at the twenty-seventh session of the General Conference of the United Nations Educational, Scientific and Cultural Organization (UNESCO) in Paris. In November 1994 a UNESCO mission visited Azerbaijan to determine the state of preservation of the educational, cultural and architectural sites in Azerbaijani territory occupied by the Armenian armed forces, and confirmed the existence of serious damage to educational institutions and the Azerbaijani cultural heritage as a result of the war.

650. The Museum of Stone Monuments in Zangelan district and the Shusha Historical Museum are continuing to suffer destruction as a result of the occupation. The Kelbajar Local History Museum, which used to contain rare historical exhibits, articles made of gold, silver and precious stones, hand-made carpets and other valuable items, has been completely looted. The museum in the house of the founder of the first opera in the Muslim Orient (1908), the musician and public figure Uzeir Hajjibekov, could disappear entirely. Sculptures of Uzeir Hajjibekov, Vagif (the famous poet and vizier or prime minister of the Azerbaijani Karabakh khanate), the poetess Khurshid-Banu Natavan (one of the rulers of the Karabakh khanate), and Biul-Biul (the outstanding tenor who studied at La Scala in Milan), have been destroyed or damaged. Many thousands of rare printed works and priceless manuscripts have been destroyed in pillaged and burned libraries. Nor has the costly furniture in cultural centres and four State theatres failed to escape the attentions of these twentieth-century vandals.

C. Information

651. Azerbaijan's various minority populations have access to minority-language radio and television programmes and books, magazines and newspapers. The national radio stations broadcast regular programmes in Kurdish, Lezgin, Talysh, Georgian, Russian and Armenian, all of which are funded from the national budget. The local radio station in Belokany district broadcasts in the Avar language, and in Khachmas district there are radio broadcasts in Lezgin and Tat. In Kusary and Khachmas districts local television shows programmes in Lezgin. In Baku over 20 newspapers are published in Russian, and there are daily radio and television broadcasts in that language. The Russian television channels ORT, RTR and NTV and the Turkish channels TRT1, Nargiz TV, TGRT and STV are relayed in full. In Azerbaijan there are also several private television and radio companies, and the State television channel shows an English language programme. Newspapers are also published in Kurdish, Lezgin, Talysh and Georgian, and these receive financial assistance from the State. In particular, the newspapers Samur and Dengi Kurd are published in Lezgin and Kurdish respectively, while in Kusary district the newspaper Kusar is published in Lezgin. The "Sokhnut" Jewish society publishes the newspaper Aziz.